

KNOW YOUR
RIGHTS AT
WORK.

A BC EMPLOYEE
FIELD GUIDE.

Info compiled and interpreted by:
Vancouver Island Industrial Workers
of the World

Summer, 2011

Find this booklet online and print
it for free over and over again at:

<http://zinelibrary.info/files/bc-workers-rights.pdf>



This information is intended solely for educational purposes and should not be interpreted as legal advice.



IWW Vancouver Island GMB
Literature Committee
iwwvi@telus.net
2011

Employment Insurance (EI).

Apply online at:

<http://www.servicecanada.gc.ca/eng/ei/application/employmentinsurance.shtml>

Or visit your nearest Service Canada office:

<http://www.servicecanada.gc.ca/cgi-bin/hr-search.cgi?cmd=lst&pv=bc&ln=eng>

WorkSafe BC.

<http://www.worksafebc.com/>

To report unsafe work, call or email:

1 888 621 7233

SSQUERY@worksafebc.com

Resources.

Industrial Workers of the World

<http://www.iww.org/en/organize>

Vancouver General Membership Branch
gmb-van@iww.ca

Vancouver Island General Membership Branch
iwwvi@telus.net
<http://vanislewobs.wordpress.com/>

BC Employment Standards Branch

<http://www.labour.gov.bc.ca/esb/welcome.htm>

Direct your questions to:
<http://www.labour.gov.bc.ca/esb/contact/feedback.htm>
1-800-663-3316

BC Federation of Labour

1 604 430 1421

bcfed@bcfed.ca

<http://www.bcfed.com/>

Libcom workplace organizing guides

<http://libcom.org/organise/workplace-organising>

PovNet

<http://www.povnet.ca>

KEEP EDUCATED.

History.

History of Canadian Labour events

http://en.wikipedia.org/wiki/Timeline_of_labour_issues_and_events_in_Canada

Comprehensive studies of working history in Canada

<http://www.workinghistories.ca>

Rights.

BC Human Rights Coalition

<http://www.bchrcoalition.org/>

1 877 689 8474

British Columbia Human Rights Code

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96210_01

Government of British Columbia Human Rights protection information

<http://www.ag.gov.bc.ca/human-rights-protection/>

Know Your Rights!

<http://www.workrights.ca>

Legislation.

(Guide to) Labour Relations Code

<http://www.lrb.bc.ca/codeguide/>

Employment Standards Act

<http://www.labour.gov.bc.ca/esb/igm/igm-toc.htm>

Legal help.

Legal Services Society BC

<http://www.lss.bc.ca/>

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AN INTRODUCTION.

This booklet is an introduction to workers' rights for new workers, young workers, and students. It will also apply to some people returning to the workforce after a long absence, and some seniors who want a job after retirement. If you have a boss and are paid an hourly wage, then this applies to you.

Work is important to us. One of the earliest psychologists said that humans must have "love, work, and friends." Of course we work for the money! Our work also touches areas of self-esteem, community, and our place in the world. Our identity is often close to our work. For example, we are more likely to say, "I am a cook," rather than "My work is cooking." And in a perfect world, most of us would choose to do meaningful work. Yet we often we must take jobs that are minimum wage, boring, menial, hard labour, or dangerous so we can pay the rent/tuition/bills.

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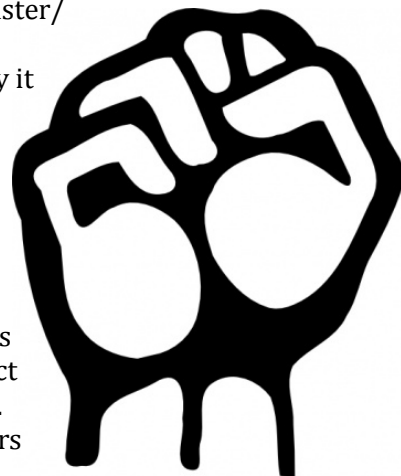
A fair day's work for a fair day's wages.

We would like to think that this is how all workplaces are operated. However, there are many exceptions, particularly in workplaces where there is low pay, unskilled labour, high staff turnover, or unregulated industry. Employers are often willing to cut corners or squeeze the employees to increase productivity or profit. Some employers operate unethically and illegally in order to make an extra buck.

The pressure often lands on the workers to go faster/longer/cheaper/leaner. And it's probably fair to generalize that the lower the pay, the more likely it is that the worker will be asked to take up the slack. This booklet provides basic information for you to know your rights, and be able to say, "No," to your boss. Know and no!

Respect.

Common culture would have us think that bosses and workers have relationships of mutual respect and share goals of profit, productivity or service. Unfortunately, this is very often not true. Workers



A common form of solidarity is, of course, the union - an idea that comes with a lot of prejudice and misinformation tied to it. A union is simply when two or more workers stand together to face their boss and demand better conditions. The demands they make can be about any aspect of the workplace, be it wages, scheduling, safety, sick leave - whatever area it is that is making work or life difficult or problematic for the workers. Unionizing can be as simple as demanding that your boss respect the union and meet your demands, or as complicated as certifying the union through the government and entering into negotiations with the boss to establish a contract which outlines how the workplace will be run fairly and for the benefit of all involved. Regardless of your long-term plan with your union, you cannot be fired or otherwise punished for organizing¹.



Unionizing.



To organize in your workplace, either contact a union that you know organizes in your industry or contact a larger general workers' association such as the BC Federation of Labour (see page 29 for contact info). We are members of the Industrial Workers of the World and would highly suggest the IWW for its democratic structure. Organizing with an existing union will bring their experience and knowledge into your fight and will make the process easier.

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1. Labour Relations Code Section 6

Human Rights Coalition.

Human rights problems can be dealt with by the *British Columbia Human Rights Coalition* (BCHRC) though the set-up is similar to the ESB. You need to file a complaint and hope that they will accept it with the outcome generally being restricted to financial reimbursement for monies owed or personal suffering due to, for example, discrimination. The first step is contact BCHRC (see page 28 for their contact info).

Direct action.

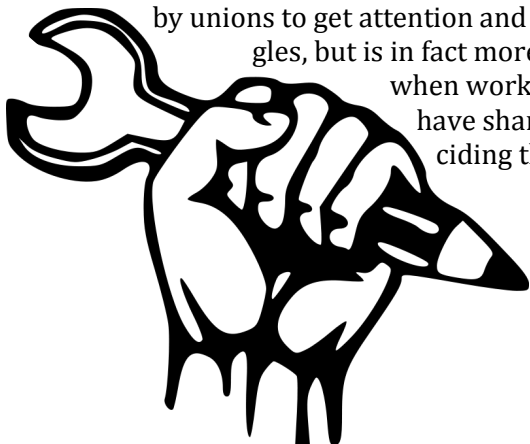
Direct action is the means by which we have any rights at work at all. The governments of BC, Canada, and the world did not give workers the right to an 8-hour day, weekends off, overtime pay, minimum wage nor any of the many other protections that are now taken for granted. These rights were fought for by working folk like you and me. Direct action gives workers another set of tools with which to stand up to the boss—everything from simple ‘work to rule’ actions where the workers simply work the job exactly as described, doing no more than is required at the job and thus slowing down both the work and the profits for the boss—to the most extreme and obvious action, a strike.

Direct action is the method to use when the boss is unwilling to treat workers with dignity and respect, when negotiation is impossible and conversation with management has come to a stand-still—sometimes the situation is so hostile that direct action is the only way to address the issues.

However, direct action has consequences and is not always legal. Workers who take part in actions can be fired, fined, and are usually threatened with legal action. This problem has a solution that is legal, and righteous—solidarity.

Solidarity.

Solidarity is not just a word, it is a weapon. It is known widely as a tactic used by unions to get attention and support for their actions and struggles, but is in fact more important than that. Solidarity is when workers recognize the reality that they have shared interests and common goals - deciding that united they are stronger and will be able to solve their own problems if they act together.



common in many workplaces.

Fairness.

In a perfect world, all employers treat all employees fairly. Shift scheduling, breaks, nasty tasks, pay rates, and overtime are all distributed fairly. However, many workplaces do not operate like this. Perhaps the children of the boss's friend always get the best and most shifts. Or the shy kid always has to unplug the toilet. Or the guy who's married gets all the overtime. Or males are paid more than females doing the same job. It's hard to keep a pleasant attitude towards work and co-workers when we are often thinking “That's not fair!”

Divide and conquer.

Perhaps the most widespread strategy that bosses use to keep workers doing their bidding is to prevent them from sharing the commonality of the workplace experience – simply talking about work! Sometimes bosses encourage employees to allow themselves to be treated unfairly; we pretend that we don't mind doing boring/unpleasant/dangerous tasks. Sometimes we are groomed to collude in treating other employees unfairly. This can be subtle – everybody is “nice” and doesn't talk about pay-stubs, pay rates, raises or bonuses – or very direct, such as “She's a bitch so she always gets the night-shifts.”

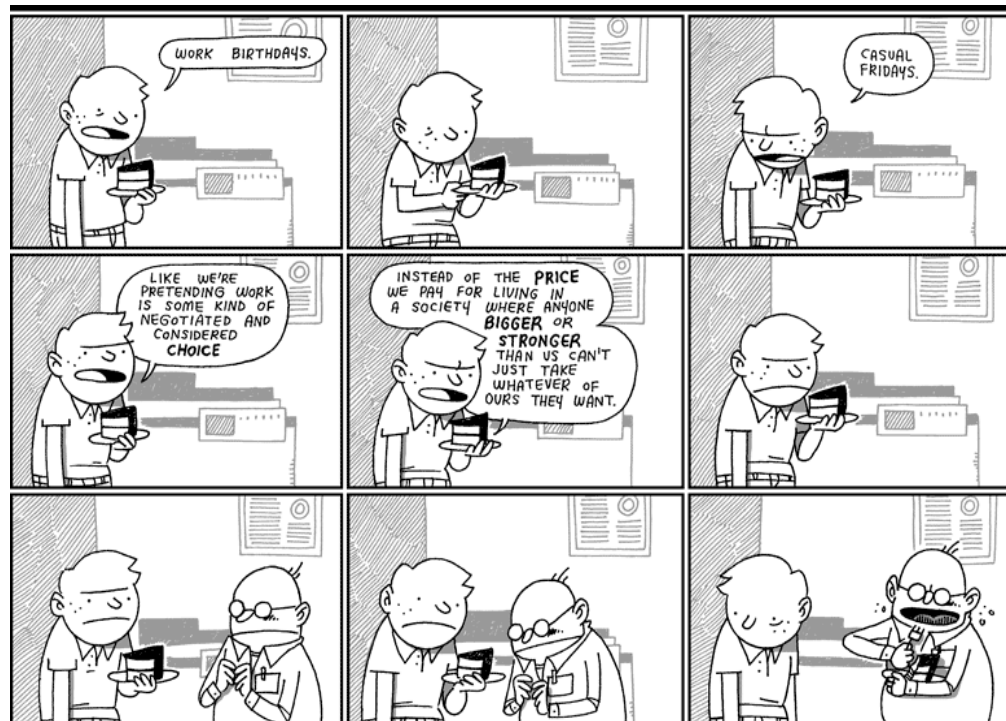
Tactics can be social pressures to fit in to the workplace culture. Nobody likes to be excluded! And with rare exceptions, we all want to be liked. This can breed a culture of fake “niceness” where no one speaks the truth. Bosses are also good at triangulation – creating small groups who are pitted against individuals or other small groups. An example is when a worker is told, “I gave you a small raise this week because you are so good at following directions – unlike the others. So it's best not to mention it to them.” Or, when a group of workers who complain about safety standards are given graveyard shifts, while compliant dayshift workers are told that the complainers “should be grateful that they have jobs.” This is an example of triangulation.

Who this booklet is for.

We believe that all workers, especially new ones, should know their rights in the workplace. In B.C., this is the *Employment Standards Act*, which defines labour standards. Farm and agricultural workers¹, and unionized workers are not included.² This booklet provides the basic information about what we are entitled to do and not do on the job. This also equips us with the basic information to help all of our co-workers, when necessary. We believe that there is more power when workers have a sense of unity about their rights and responsibilities in the workplace. We believe that when workers are educated about their rights, it can help to stop employers who transgress the labour code. In this way, we are protecting our rights, income, free time and benefits.

This information is a tool—because the bosses need us, but we don't need them. We are not powerless.

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Cat and Girl www.catandgirl.com

1. For more information about your rights as an agricultural worker, go to <http://www.labour.gov.bc.ca/esb/facshts/pdfs/farm-workers.pdf>
2. If you get a union job, ask for a copy of your collective agreement!

STANDING UP FOR OURSELVES.

There are many ways that the boss will attempt to steal, skimp, abuse or otherwise screw you over, as we have covered in this booklet. However, there are relatively few ways for workers to defend their rights. As workrights.ca points out: "In every province and territory, workers who feel their boss has broken the employment standards law can file a complaint. But they should be aware that there are often time limits for filing, and that complaints can take a long time to resolve. Government cutbacks mean that in general there are fewer employment standards officers available to deal with complaints."

Due to the lack of funding and general misinformation within the governmental organizations, workers' rights are being eroded - we suggest that now is the time for abused workers to defend their rights. The official and most procedural way of getting money that was stolen from you is to use the flimsy options offered by the *Employment Standards Branch* (the ESB).

Employment Standards Branch.

One way to deal with any money-related problems is through the *Employment Standards* complaint process. You will have to complete a Self-Help Kit that will guide you through such enjoyable steps as proving that you have a problem and contacting your boss in writing asking for them to follow the law and/or pay up on the money you owe. The *Employment Standards Branch* does not accept complaints unless this process is completed first, including a 15-day waiting period for your boss to have time to respond at his/her convenience.

Once the boss has disregarded the letter or in another way failed to act, you can then move on to filing a complaint! You only have six months from the incident or termination of employment to file your complaint. If your complaint is deemed worthy in their eyes, the *Employment Standards Branch* will contact your employer, demand more evidence, and perhaps, have mediated meetings with you and your boss to try to get an agreed settlement. If you cannot, there may be a hearing, and the branch will make a determination about whether you are legally owed money or not. If you are still not happy, there is a tribunal that you can appeal to. This is basically the extent that the government is willing to help, unless the case is a Human Rights issue.

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GETTING A JOB.

Discrimination.

Today, it seems as though there is a general consensus that we live in an equal society that does not discriminate along the lines of race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age. Well, the *Employment Equity Act* and *BC Human Rights Code* (HRC) agrees that no job can be advertised for or against anyone on the basis of these differences, or refuse to hire you on the following grounds:

- | | |
|--|-------------------------------|
| <input type="checkbox"/> race | colour |
| <input type="checkbox"/> ancestry | place of origin |
| <input type="checkbox"/> religion | marital status |
| <input type="checkbox"/> family status | physical or mental disability |
| <input type="checkbox"/> sexual orientation | age (19 and over) |
| <input type="checkbox"/> criminal conviction | political belief |
| sex (includes pregnancy, breastfeeding, and sexual harassment) | |



UNLESS:

- the limitation, specification or preference is based on a bona fide occupational requirement¹.

(Now, what that “bona fide occupational requirement” is exactly we can’t say.) In employment, harassment is any unwelcome action by any person, in particular by management or a co-worker, whether verbal or physical, usually on a repeated basis, which humiliates, insults or degrades due to membership in a protected group. Unwelcome or unwanted in this context means any actions which the harasser knows or reasonably ought to know are not desired by the victim of harassment.

1. *British Columbia Human Rights Code* Section 11

Discrimination can be as blatant as racist or sexist remarks or actions, or as subtle as asking inappropriate questions in an interview. According to the HRC, your employer also has a duty to reasonably accommodate the needs of disabled persons, unless doing so would result in undue hardship.¹

If you think you are being discriminated against, contact the *BC Human Rights Coalition* immediately. See page 26-28 of this booklet for more information.

Interviews.

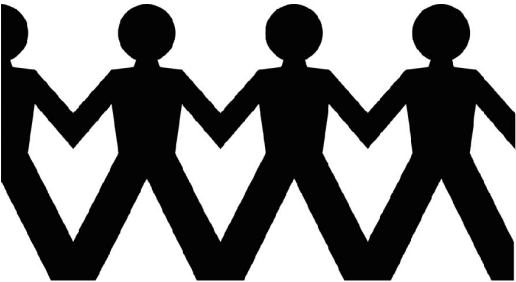
With the exception of the Bona Fide Occupational Requirement, employers are not permitted by law to ask you about your ethnic background, religious practices, union membership, age, disability, or any other characteristic that could be grounds for discrimination. However, employers often avoid explicitly asking questions that would be considered discriminatory by asking questions that subtly access the same information. So, if you're asked if you have children, they may be trying to avoid hiring someone who will need maternity or parental leave. While it is not illegal to ask these sorts of questions, they do tell you a lot about the type of boss and work atmosphere it will be. So watch out!

Q: What if I'm asked inappropriate interview questions?
A: You don't have to answer!

If you're asked these sorts of questions, watch out!

- What is your family like?
- Are you planning on getting pregnant?
- How many days of work did you miss at your last job?
- Do you need a certain day off each week?
- What is your goal for working here?

Make sure you keep track of (and even write down) the details of the job as the boss offers it to you: the availability of the position (when the job starts), the type of work, the pay, and the working conditions. If you are hired your boss **MUST** respect these terms², and if they do not, you can keep the job while demanding compensation. If the terms and conditions are different from those initially offered, you should inform your boss and contact the *Employment Standards Branch* as soon as possible.



1. For more information, see http://www.bchrcoalition.org/files/faq_DTA.html
2. *Employment Standards Act* Section 8

Employment Insurance.

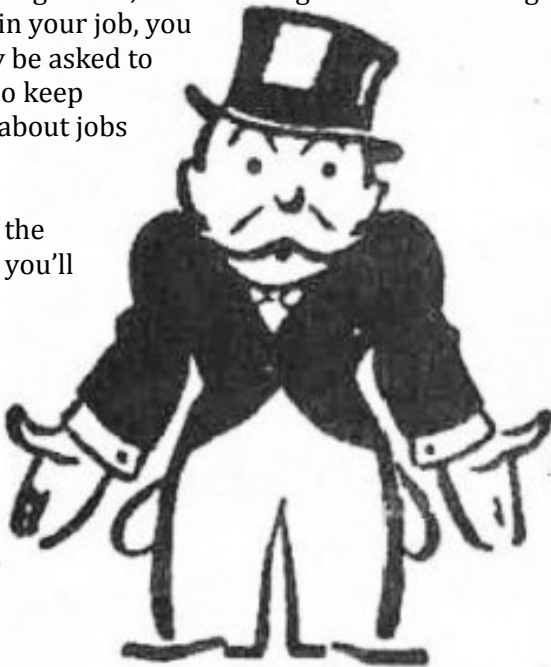
Employment Insurance, or EI, (formerly Unemployment Insurance but don't get us started on that) is a fund all workers and their bosses must pay into. The running theory is that it's meant to bridge the gap between losing your job and finding another. The amount you would get would probably not cover your living expenses, so don't expect to rely on it. Use it as a tool.

As soon as you are informed you're to be laid off you should find out about applying for EI benefits. You may still be able to get EI if you quit.. Let your boss know that you'll be requiring a Record of Employment – a vital document your boss must provide to certify how many weeks you worked and how much you were paid. If your boss refuses to provide a ROE within two weeks of you losing your job, submit any other form of proof of employment, such as paystubs and work schedules.

Everything works in calendar weeks in EI – Sunday to Saturday. If you can, file your EI claim on the last day you work – online if necessary. There's a waiting period of 2 weeks where you won't be paid anything beginning on the Sunday following your claim. Your benefits should commence as of that third week if you qualify. But the decision about your qualification might take 4 – 6 weeks so be prepared for that.

Unless you're unemployed due to an illness or injury, you'll be expected to be looking for work. Even if you're taking action, like a union grievance or wrongful dismissal claim in court to regain your job, you must be looking for work. You may be asked to demonstrate an active job search so keep notes on when you make contacts about jobs and with whom.

There are lots of subtle nuances of the Unemployment Insurance Act that you'll need to be aware of. Look to: <http://www.servicecanada.gc.ca/> and search for an EI application or drop by the Service Canada office in your town.



So you quit.

When your job becomes too tedious or demeaning, or maybe you've gotten all you need from it and are ready to move on to better things, it is time to quit.



If you are quitting, you do not have to give notice unless you signed a written contract at the beginning of your employment. However, if you give your boss notice of your intention to quit and your boss refuses the notice or fires you within the notice period, you then have the right to be paid for the time you gave notice for.

Your last paycheque.

No matter how long you worked, your boss only has 48 hours to pay ALL the monies owed to you if you were fired, or 6 days if you quit.¹ That includes:

- any unpaid statutory holiday pay;
- overtime wages;
- vacation pay;
- any money held in a time bank;
- termination pay; and
- ANY & ALL money earned and due at the time of termination and afterwards.

Bosses are a stingy bunch and will often try to keep the money they owe you. Do not let them! You can try to file a complaint with Employment Standards, though the government is in the pockets of the big employers so it may be a long and painful process. You can get help through legal services and if you think you have been discriminated against, contact the Human Rights Commission. Your best bet, though, is to start or join a union and demand your rights be respected.

Chance

**THIS CARD MAY BE KEPT
UNTIL NEEDED OR SOLD**

**GET OUT OF WORK
"FREE"**



happyworker.com



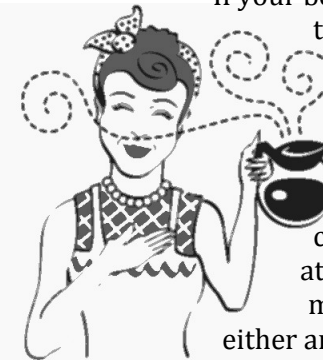
SO YOU GOT HIRED.

Starting work.

Training.

There is a three month period after you are hired before your boss is required to give you notice of or compensation for firing you. This is considered in many jobs the 'probation' period where you are supposed to show that you will be a good employee. It is best to avoid aggravating your boss during this time.¹

Uniforms.



If your boss requires you to wear a uniform or special clothing, they must provide it for you free of charge, and are required to keep it clean and maintain it at no cost to you—it is your right to ask for it—unless otherwise decided by you and your boss through a written agreement.² A uniform could be as simple as a t-shirt with a logo or as complex scrubs or chef's whites. Special clothing is any kind that your boss requires you to buy at a specific outlet, or a designated brand or style that must be worn. That means you have the right to ask for either an allowance to purchase required clothing or that it be provided for you.

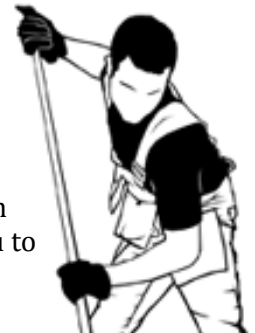
Working construction? Personal safety equipment required by WorkSafe BC, such as steel-toed shoes, is not considered special clothing unless it identifies or associated you the worker with your employer.

Safety gear.

So you landed that outdoor job that you've always wanted in construction, the oilfield or a paving crew. The boss told you to

1. *Employment Standards Act* Section 63

2. *Employment Standards Act* Section 25



show up at 6am ready to work.

Ready to work means that you have the appropriate work gear. You are responsible for supplying your own hard hat, general purpose work gloves, appropriate footwear including steel toe boots if required, and whatever clothing is needed to protect you from the natural elements. You are responsible for making sure that everything is maintained in good working order.¹



The company must supply you with any necessary equipment and clothing to protect you from chemical exposure or an oxygen deficient atmosphere. This means chemical resistant gloves, aprons, boots, dust masks, safety glasses or face shields, respirators and, if necessary, oxygen packs.

Any clothing or equipment outside of your basic work ensemble needs to be supplied by the boss and it needs to be in good working condition. Included, but not limited to, is hearing protection appropriate to the danger to your hearing, reflective safety vests if you're working around traffic, flame resistant clothing if working around open flames, molten metals, welding etc.

Don't assume that you know how to properly use the safety equipment that is supplied. Even after you've been given the 10 second run down during a coffee break, ask to see the instruction book - **READ IT.**

Drug testing.



Mandatory drug testing is illegal in BC. However, there can be exceptions in the case of dangerous or challenging occupations where it is a legitimate safety concern, such as airline pilots, bus drivers, and operators of heavy machinery. This is a legal grey area because alcoholism and drug addiction are both considered disabilities; if you are dealing with either of these and are able to continue doing your job, your boss has no right to harass, discriminate, or fire you because of your disability.²

1. *Occupation Health and Safety (OHS) Regulations* 8.2
2. See *BC Human Rights Act*

It is up to your boss to prove that Just Cause exists, so if you are up to any of this, make sure your boss does not know! Also, keep in mind that, while the boss usually needs evidence of more than one instance to prove Just Cause, "serious infractions" only require one instance.

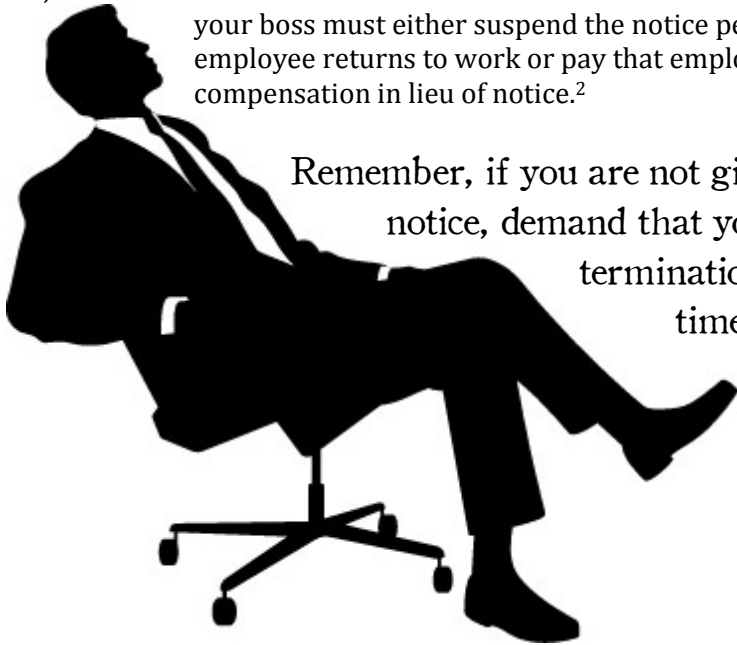
The laws are very unclear on this, so if you end up fired and don't think it's just, you can do something about it! See page 26 for tips of Direct Action and making a formal complaint.

So you got fired...

If you're fired from a job that you have held for three months or more that is not under a contracted amount of time or are a construction worker, you have the right to getting written notice:

- a week a head of time for 3 to 12 months of consecutive employment;
- two weeks for over 12 consecutive months; and,
- three weeks after three years of employment plus one week for every year following up to eight weeks' notice. ¹

Once you get notice, your boss can't change any condition of your job, including your wage rate. If you are on vacation, leave, temporary layoff, strike or lock-out, or unavailable for work due to medical reasons during the notice period, your boss must either suspend the notice period until the employee returns to work or pay that employee compensation in lieu of notice.²



Remember, if you are not given written notice, demand that you receive your termination pay for the time you did not work due to a failure to give notice. It is your right!

1. *Employment Standards Act* 63.3
2. *Employment Standards At* 67

TERMINATED.

Once you are finished with your job (or your job is finished with you) you still have rights! Remember if you are planning on losing your job to lose it strategically. Use your rights or you will lose your rights!

First of all, you cannot be fired for using your legal rights – don't let your boss tell you otherwise. Your employer also has no right to fire you:

- if you get pregnant (or change the conditions of your employment)
- if you take time off for pregnancy and/or parental leave – give notice and find out exactly how long you can take.
- if you take leave for family reasons of health, terminal illness, or death (see pages 21-22 for details on taking leave).
- for discriminatory reasons (ethnicity, sexual orientation, disability, religion – anything that is covered by your human rights laws)
- for filing a complaint under employment law.

If your job conditions are changed fundamentally without your consent and without notice, this can also be considered a firing without notice.

Just Cause.

'Just Cause' is a dirty loop-hole put into the *Employment Standards Act* that means if your boss can prove that he or she had a good reason to fire you, he doesn't have to give you notice or compensation. For example, if they can prove:

- theft;
- fraud and dishonesty;
- assault or harassment of co-workers;
- serious willful misconduct;
- conflict of interest, especially if it involves provable loss to the employer;
- serious undermining of the corporate culture (no, seriously!);
- chronic absenteeism or tardiness; or,
- unsatisfactory performance.

Right to refuse unsafe work.

Most accidents on the job are preventable. If you do not think the work you are given is safe, you have the right to refuse. Many times bosses ignore warnings from workers that a situation is dangerous and order workers onward anyway.

You can't be punished for refusing "unnecessarily hazardous" work, but you have to use your judgment. If it looks dangerous it probably is. If you are facing unsafe (hazardous) work, document the problem and inform your supervisor. If they refuse to resolve the hazardous conditions, get in touch with *WorkSafe BC* (see page 28 for contact information). Just be aware that there are fewer investigators these days with budget cuts and you may not be able to just snap your fingers and have it looked into.



Be ready to take some heat if you refuse to do the job. Your boss may fire you on the spot. Document everything because you should be eligible for compensation later for unjust dismissal.

At least you'll escape with your life.

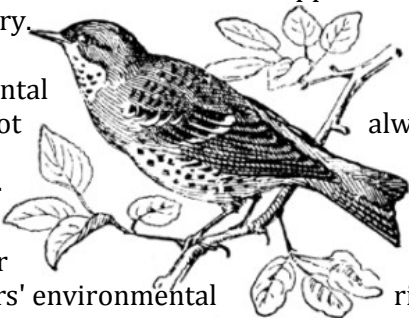
Protecting the environment.



Workers' environmental rights are fairly new in Canada. The few rights that have been set in law are workers' right to refuse to pollute, and workers' right to report workplace pollution. The right to refuse to pollute allows a worker to stop working when the work causes environmental damage. The right to report workplace pollution secures a worker from being fired for reporting environmental damage that originates in the workplace.

Popularly known as "whistle blower protection," the right to report is found in environmental law in some provinces and territories, and in labour law elsewhere. Workers' right to refuse to pollute is found in Yukon's environmental law, and in federal environmental law that applies in the provinces and territories across the country.

Workers' environmental rights are still developing. At present, it's not always clear how employers can be brought to respect these rights. Nor is it always clear when workplace pollution is at a level that makes it legal to report the employer, or refuse to work. Workers' environmental rights differ between the provinces, territories and the federal workplace jurisdiction. In some jurisdictions, these rights are more developed and clearer than in others.



Putting in the time.

Hours and scheduling.

The basic rules of scheduling and therefore getting paid are:

- **split shifts must be completed within 12 hours of when you started¹;**
- **employees must have at least 32 hours in a row free from work each week unless they are given time and a half pay for the hours in the 32 hour period;**
- **you are entitled to an 8 hour break between shifts²; and**
- **no excessive hours are allowed.³**

If you are working so much that it is not good for your health or safety - whether your boss told you to, asked you to, or even if they are not aware of it - then you can demand fewer hours. If the demands are not met, your boss is breaking the law and asking for action to be taken against them.

Equal pay.

The right to equal pay in British Columbia is, at best, vague and theoretical. According to the BC Human Rights Code, your employer must pay men and women at the same hourly rate "for similar or substantially similar work."⁴

1. *Employment Standards Act* Section 33
2. *Employment Standards Act* Section 36.1.b
3. *Employment Standards Act* Section 39
4. *Employment Standards Act* Section 12.1

Sick leave.



Another unsettling fact is that in BC we have no protection for workers who get ailments of a small or common nature. *BC Human Rights* gives you protection from discrimination due to disability, but "common" illnesses such as colds and flus are specifically not covered.

If you have not been at your job yet three months, your boss can fire you for any reason with no notice, and that includes having to stay home.

If you have worked for more than 3 months at a job and have to call in sick a few days in a row (or catch a cold a few times and call in but do not develop a chronic illness) your boss has the possibility of dismissing you for "chronic absenteeism" which does not require notice. This is a big grey area and you would do well to be careful if you get sick—call the *Human Rights Coalition* (see page 28 for the number) to discuss your specific illness.

Parental leave.¹

You can ask for parental leave if:

- **you just had a baby! You may take up to 35 consecutive weeks of unpaid leave beginning immediately after the end of your pregnancy leave taken, or 37 weeks if you did not take pregnancy leave;**
- **you are a new father! You may take up to 37 consecutive weeks of unpaid leave beginning after the child's birth and within 52 weeks after that event;**
- **you adopted! You may take up to 37 consecutive weeks of unpaid leave beginning within 52 weeks after the child is placed with the parent.**

In the case where more time is needed with your child due to any sort of physical or psychological illness, you may take an additional 5 weeks unpaid leave.

Again, make sure you give written notice to your boss that you want the time off at least 4 weeks in advance.



1. *Employment Standards Act* Section 51

Things happen....

Up to five days a year, you can take an unpaid day off to take care of family responsibilities, such as caring for an ill family member or an education day with your child.¹ If an immediate family member passes away, you may take three consecutive days unpaid leave immediately. Just let your boss know.² There are plenty of other situations where taking time off is possible, such as extended leave to care for a terminally ill family member - just check the *Employment Standards Act*!



Big things happen, too - you get sick, pregnant, or need to take some family time. Here's the details on how to take the time you need without getting fired or needing to quit.

Pregnancy leave.³

You are entitled to up to 17 consecutive weeks of unpaid time off:

- **beginning up to 11 weeks before the expected birth date up to the actual birth date**
- **ending no less than 6 weeks and no more than 17 weeks after the actual birth date (unless you request to go back sooner).**

Make sure you give your boss a written request for leave at least four weeks before you want the time off.

If you request leave after the birth of your child or choose to terminate your pregnancy, you are still entitled to up to 6 consecutive weeks of unpaid leave beginning on the date of the birth or of the termination of the pregnancy.



Up to 6 additional consecutive weeks of unpaid leave for reasons related to the birth or the termination of the pregnancy are available if you are unable to return to work when your leave ends due to health reasons.

1. *Employment Standards Act* Section 52
2. *Employment Standards At* Section 53
3. *Employment Standards Act* Section 50

Equal pay.



There is no legislation recognizing discrimination in pay rates based on differences, such as ethnicity and age, probably because the Code assumes that those pay differences will be made based on one's skill on the job. Similarly, if your boss says that you get paid less (or more) than a fellow worker of the opposite sex because one of you has worked there for a longer period of time or your job positions and responsibilities are different, then they are legally justified in paying you differently. Just another example of how the Law is often written to favour your boss...

If you think that you are being paid less than your co-workers due to your sex, see page 26 for more information on how to file a Human Rights complaint.

Minimum wage.

Employment Standard's Regulation says that you and your employer must agree on a rate of pay that meets or exceeds the minimum hourly wage requirement.¹

As of May 1st 2011 there is a new lower minimum wage for servers of alcohol. This is unprecedented in BC and is definitely unethical, if not illegal. Tips are clearly defined in the *Employment Standards Act* to not be considered part of your wages, but the government still sees fit to have workers who serve alcohol—presumably on account of their tips—be paid less. The lower minimum wage is a double standard and an insult to all workers.

As of May 1st, 2011, the general **minimum wage is \$8.75/hour**, \$8.50/hour for liquor servers. This will be going up over in increments over the next year as follows:

1. *Employment Standards Act* Section 16

November 1st, 2011:
 general \$9.50/hour **liquor servers \$8.75/hour**

May 1st, 2012:
 general \$10.25/hour **liquor servers \$9.00/hour**

This includes ALL work including commission work - all hours worked must be paid. If your commission does not cover the minimum wage per hour of work you put in, it is up to your boss to cover the remainder of the pay. This is money owed to you and may not be “banked for” or deducted from another pay period or pay source (no “drawing off” future commissions). Tips are not part of your hourly wage! They are gratuities from customers, not something nice your boss is allowing you to have!¹

Q: Why is it so hard to make ends meet even when the government enforces a minimum wage?

A: Because minimum wage is not a living wage!

There is no doubt that the minimum wage is not enough to live off of comfortably, especially if one has to support a family with one full-time job. More than a quarter million British Columbians earn less than \$10 per hour. Increasing minimum wages might happen to benefit some teenagers who are not technically poor, but this should not stop governments from ensuring that all those who are trying to support themselves through full-time, full-year work can escape poverty.

Work should lift people out of poverty, not keep them there.



Sadly, the government does not believe that workers in certain jobs are worthy of having rights, especially jobs held by young people or people who are desperate for work. Workers who deliver newspapers for less than 15 hours per week are considered not worthy of being covered by the employment act, and thus do not have any but minimal protection. Farm workers have an entirely separate and confusing set of rights, and people who pick certain fruits are also left to fend for themselves.

1. Employment Standards Act Section 16.2

Getting your money.

Your employer is required to keep track of all hours worked—and we strongly suggest that you keep a personal record as well. Just in case! Discrepancies can happen by accident—and on purpose—all the time. It’s a good idea to have a back-up in case of any mix-up when your cheque arrives. Finally,

- **you must be paid at least twice a month;**
- **a pay period cannot exceed 16 days; and**
- **you must have your pay, including overtime and stat holiday pay, within eight days of the end of the pay period.¹**

Taking time off.
Vacation.

Most young, student workers or workers in the service industry will simply get paid Vacation Pay in lieu of taking a vacation each year (see page 15). However, if you’ve got a solid job, this may apply to you!

In general, you are entitled to at least 2 weeks of vacation after your first consecutive year of employment with the same employer. After five consecutive years of employment you are entitled to at least 3 weeks of vacation. Your boss must give you your vacation time within 12 months after your first year of employment - you work hard for your money, and for your time off, too!²

Remember that you are still entitled to statutory holiday time-off or pay when you are taking vacation days.



1. Employment Standards Act Section 17
2. Employment Standards Act Section 57

Statutory holidays.

In B.C., Statutory holidays are:

New Year's Day	Canada Day	Thanksgiving Day
Good Friday	B.C.Day	Remembrance Day
Victoria Day	Labour Day	Christmas Day

Statutory holiday pay is confusing at best. You qualify for stat pay if:

- **you have been employed for at least 30 days; and**
- **have worked on at least 15 of the 30 days before the holiday.**¹

In this case, you are entitled to either:

- **a day off with an average day's pay**
(that is, your total wages earned divided by the number of days
worked in the previous 30 calendar days)

or

- **time-and-a-half for the first 12 hours worked and double-time after**
12 hours; and
- **an average day's pay.**²

If you and your boss agree, you can opt to have a paid day off rather than the extra day of pay.³ If the stat falls on your day off, you still get that average day's pay.⁴

Deductions.

Unless your employer has a written agreement with you, they are not able to take any deductions from your pay other than what the government demands.⁵ As the employee you are not responsible for covering any business costs; that is the boss' problem. Your boss cannot deduct business expenses from your wages nor can they demand you pay them from your own money including your tips. You do not have to supply a float and if you use a car or tools for your job, your boss is required to pay fuel and maintenance costs. So, dine and dash and broken dishes are not your responsibility—they are a cost of business.

1. *Employment Standards Act* Section 45
2. *Employment Standards Act* Section 46
3. *Employment Standards Act* Section 48
4. *Employment Standards Act* Section 45
5. *Employment Standards Act* Section 21



Minimum daily pay.

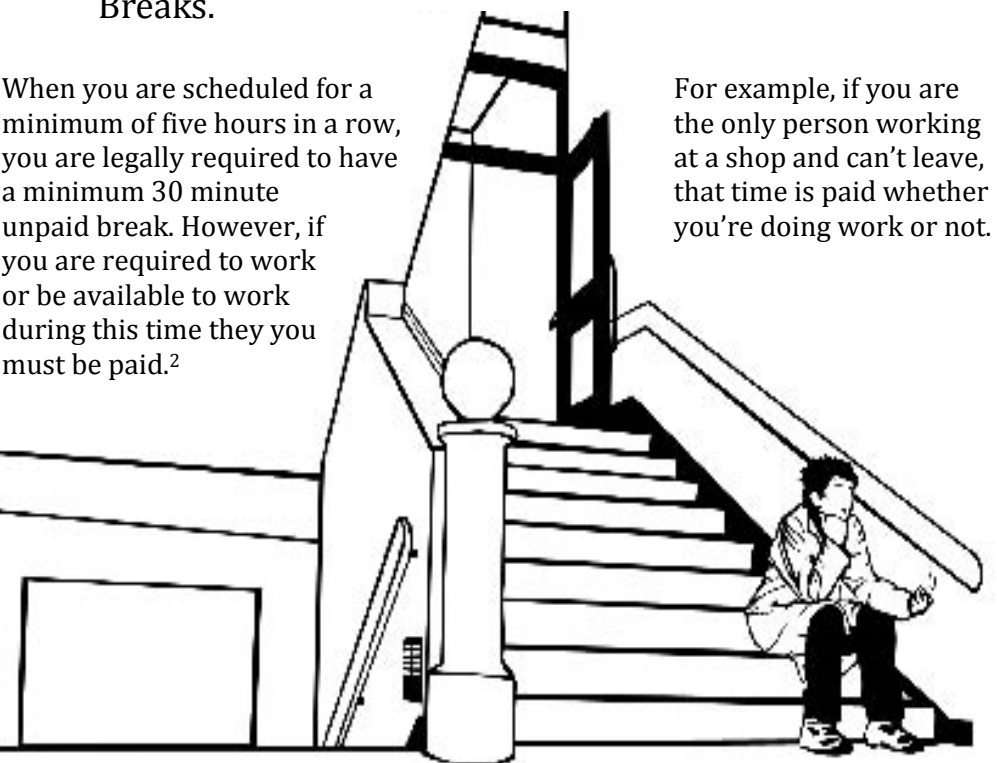
It's happened to all of us - you got your schedule at the beginning of the week and you show up for your scheduled shift, only to find that your boss changed the schedule the night before and forgot to call you. Well, schedule changes must be made at least 24 hours in advance; if it wasn't and you show up for your shift, you must be paid for at least two hours of work. If you come into work and are sent home because, for example, it is not busy, you must be paid for two hours. If your shift was longer than eight hours, make it four hours of pay. If work is cancelled for reasons beyond your boss's control, such as a power outage or dangerous weather conditions, they still have to pay you for two hours or the actual time worked, whichever is greater.¹

Of course, if you come into work sick or hung over, you will be paid only for the actual time you worked if you have to go home. But, if your boss asks you to go home before you suggest it, they still have to pay at least the minimum daily wage (two hours).

Breaks.

When you are scheduled for a minimum of five hours in a row, you are legally required to have a minimum 30 minute unpaid break. However, if you are required to work or be available to work during this time they you must be paid.²

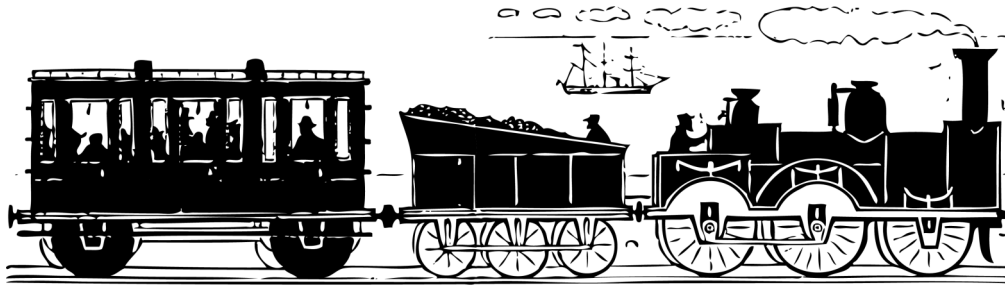
For example, if you are the only person working at a shop and can't leave, that time is paid whether you're doing work or not.



1. *Employment Standards Act* Section 34
2. *Employment Standards Act* Section 32

Travel time.

Commuting to work is something most of us do without pay, but in some cases, you may be entitled to travel time pay.



If you are required to:

- **travel under the direction or control of your boss or are performing work for him or her, the time is considered time worked and you must be paid at least minimum wage.**
- **meet at some point where you receive transportation to a job site, then the transport time from the meeting point to the job site is paid at least minimum wage.**
- **meet at a marshaling point for travel to a remote work site when there is no other way to the work site, such as a ferry terminal, then the transport time from the marshaling point to the job site is paid at least minimum wage.**
- **travel between sites during your work day, such as landscaping where you go from one yard to another, then the travel between sites is paid at your regular rate of pay.**
- **travel out of town for work that isn't part of your regular job description, then all travel is paid at your regular rate of pay.¹**

Remember, if your boss asks you to do something on the way to work, then you are officially on the clock!

Overtime.

First of all, an employer must not require or directly or indirectly allow an employee to work excessive hours or hours detrimental to your health or safety.² But, if you need the extra hours and choose to work more than 8 hours in one



1. See <http://www.labour.gov.bc.ca/esb/facshts/travel.htm> for more info.
2. *Employment Standards Act* Section 39

day, or more than 40 hours in one week, you are entitled to overtime pay of time and a half (that is, your hourly wage plus half of the wage is earned for each extra hour you work). If you work over twelve hours in one day, you are entitled to double time (twice your hourly pay for each hour over 12).¹ Don't let your boss tell you that you can, for example, work 10 hours today and 6 hours tomorrow rather than get paid the overtime—unless you have both signed a written “averaging agreement”, this is not legit!²



Same thing—banking overtime hours can be done, but only at your written request, not at your boss's choosing! Make sure you know what you're signing up for and read Section 42 of the *Employment Standards Act* before you sign anything.

Keep track of your hours worked and the overtime you are owed. Bosses often don't pay overtime voluntarily, even though they are legally required!

Vacation pay.

You may not be able to take a two week holiday, but after five days of working for an employer, you begin to accrue vacation pay. Basically, after five days of work, at least 4% of your total wages during the calendar year is provided to you as vacation pay (and it goes up to 6% after five consecutive years at the same job). Your vacation pay must be paid to you:

- **at least 7 days before you want to take time off using the accrued vacation pay,**
- **at each pay period (if you agree to this in writing)**
- **when your job is terminated (whether you quit or are fired).³**

You work hard for that break, so make sure you hold your boss accountable to letting you take time off if you want it!



1. *Employment Standards Act* Section 40
2. See *Employment Standards Act* Section 37 for more info
4. *Employment Standards Act* Section 58