



**INDUSTRIAL WORKERS OF THE WORLD**  
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## Complaint Resolution

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*This Employment Standards Factsheet is also available in a [printable pdf format](#)*

Beginning in July 2002, the Employment Standards Branch of the Ministry of Skills Development and Labour implemented a new complaint resolution process.

These changes give employees and employers tools and information to solve problems without immediate government intervention. If a problem cannot be resolved, the Branch will try to facilitate a resolution or, if necessary, issue a decision.

**Important:** Except in unusual circumstances, the Employment Standards Branch will not accept a complaint unless an employee has taken the required steps to try to resolve the problem themselves. This includes using the Self-Help Kit that is available from any Employment Standards Office and on the Internet.

### COMPLAINT RESOLUTION STEPS:

#### 1. Understanding rights and responsibilities

Any time an employee or employer feels there may be a problem that comes under provincial employment standards, they should make sure they understand their rights and obligations.

The Employment Standards Act and Regulation set out minimum workplace standards for most employees in British Columbia. Some professionals are exempt from all or part of the Act and there are a number of employee groups and industries where special employment standards rules apply.

Information about employment standards, including a general guide to the Act and Factsheets on various subjects, is available from any employment standards office or at [www.labour.gov.bc.ca/esb](http://www.labour.gov.bc.ca/esb) on the Internet.

The Act also sets out time limits for complaints and for the time where the Branch can order an employer to pay money owed to an employee.

#### 2. Resolving problems without immediate government intervention.

The Employment Standards Branch encourages employers and employees to try to resolve disputes over the payment of wages or other issues under the Employment Standards Act and Regulations between themselves. The employment standards Self-Help Kit provides tools and advice to help employees:

- Learn if the Employment Standards Act applies to their situation.
- Understand employee rights under the Act.

- Calculate how much money they are owed or understand what the employer needs to change.
- Formally request that an employer pay money owing or make changes required under the *Employment Standards Act*.

The Self-Help Kit takes the employee through a step-by-step process of defining the problem and identifying what they want done to solve the problem. It includes worksheets, sample forms and a letter from the employment standards branch to the employer. At the end of the process, the employee makes a written request to the employer to pay money owing or to comply with the Act.

If the issue involves money and the employer agrees with the employee's request, money can be paid directly to the employee. At this point the matter is considered resolved.

If an employer and an employee cannot work out a solution or if there is no reply from the employer, an employee can still make a complaint to the Employment Standards Branch. In certain unusual circumstances, an employee will not be required to use the Self-Help Kit. This would be when an employer's business is insolvent or if the matter involves a child under 15 years of age.

### **3. Filing a Complaint**

**Employment Standards** complaints must be in writing and can be made by mail, fax, in person or over the Internet. The employee ("the complainant") must supply any evidence that relates to the complaint. If a complaint is accepted, the Branch will notify the employer. The Branch will also advise the employer what information they must provide if they want to dispute the complaint. If the employer resolves the complaint at this point and pays any money owing, no further action will be taken on the complaint.

A complaint must be filed within six months of the occurrence if the employee is still employed with that employer.

If employment has terminated, a complaint must be filed within six months of the date of termination.

### **4. Dispute resolution**

An officer with the Employment Standards Branch will examine the complaint and the evidence that has been provided. It is the responsibility of the complainant and the employer to provide any evidence or information that the officer requires. This could include: payroll information, records of hours worked and wages paid, and documentation of disciplinary actions.

If the officer believes the dispute can be resolved through mediation, he/she may arrange a mediation session in person or by teleconference. If the parties agree on a solution, the officer will draft a "Settlement Agreement" that both the complainant and the employer will sign.

A Settlement Agreement is a legal agreement to accept the terms of a settlement. The agreement can be registered in the Supreme Court and enforced as a judgment of the Court. Even if meeting does not resolve the dispute, it will help the employer and employee narrow down issues and agree on a common 'statement of facts ' about the dispute.

### **5. Employment Standards Branch Adjudication**

If the complaint can't be settled through mediation, the Branch will make a decision from information on file, or after a short hearing. If a hearing is needed, both parties will be required to attend along with any witnesses necessary to the case. The Branch's decision is called a Determination.

A Determination is a legal document issued under the authority of the Director of Employment Standards. The Determination sets out the Branch's decision.

If the Branch determines money IS payable or that the employer HAS contravened the Act the Determination will include a monetary penalty. If a Determination is not paid as requested, it can be filed in Court and is then enforceable the same way as a Judgment of the Court. The Judgment may be turned over to a Court Bailiff for collection.

## **6. Appeals**

A Determination can be appealed to the Employment Standards Tribunal. More information on appeals is available at [www.bcest.bc.ca](http://www.bcest.bc.ca) on the Internet.