

Changing Workplaces Review

Public Consultation

Sudbury, Ontario

Presented by: Nicole Beaulieu, Executive Director
Sudbury Workers' Education & Advocacy Centre

July 23, 2015

Recommendations to the Employment Standards Act

- Since 2014 SWEAC has helped over 90 workers and I want to bring their struggles to light because they are the ones who see how much our work is changing and who know what it feels like to have their fundamental rights be violated.
- Unfortunately, due to the culture of fear that they live in every day, they did not feel comfortable being here to speak themselves. I feel this is an important point to make as it speaks to the lack of enforcement in allowing workers to exercise their rights and talk about issues at work.
- S.W.E.A.C wants to see an Employment Standards Act with less exemptions. Exemptions cause inequalities within our own laws. All workers should be protected by our minimum standards. More specifically, there shouldn't be exemptions or special rules around overtime. What justifies the fact that seasonal workers or taxi drivers don't get overtime? What justifies the fact that farmworkers don't even have the right to minimum wage?
- We want less exemptions, and a repeal to the liquor server's minimum wage and the student minimum wage. We blatantly discriminate against age within our labour laws, and this is absolutely shameful. We are the only province left in Canada with a student minimum wage.
- As for decent hours and fair scheduling - The ESA has a role in establishing a framework for equality among workers doing comparable work. The government should not enable employers to impose inferior pay or conditions on part-time, contract, temporary or casual workers simply because the form of their employment. This happens in the retail sector, in the public sector and even the mining sector here in Sudbury. Many of our clients are working contracts, are subcontractors or working through temp agencies and they don't always get the same treatment as their full-time counterparts.
- Equal pay and working conditions regardless of hours worked could be a key strategy in addressing Premier Wynne's mandate to reduce the gender wage gap, and it would help reduce right violations between people doing the same job. There should be no differential treatment in pay, benefits, vacation and other working conditions for workers who are doing the same work.
- All workers should receive a written contract on the first day of employment setting out terms and conditions including expected hours of work. The ESA should regulate renewal of contracts so that seniority translates into permanent job status and it should prevent people being constantly terminated and replaced by someone doing the same job for less cost. We need more job stability and job security, and working contract after contract is not easy to live on. This allows employers to avoid

following many regulations and it generally keeps people being paid less and working without benefits.

- The ESA should be amended to include a minimum shift of three hours. Some of our clients have been called into a shift for 1-2 hours, and then sent home. If they took the bus to work, it cost them more money and time to get there, then it did to actually do the job. This is keeping people living in poverty.
- When talking about reducing work insecurity and scheduling we should also require two week's advance posting of work schedules so that people know when they work. More and more employers are using the "on-call method" where employees are asked to sign a contract stating that they are willing to be on-call 24 hours a day, 7 days a week. Therefore they never have a schedule and must make themselves available "in case" they are called into work. This is ridiculous and expects human beings to set aside their family, health and other basic human rights to be able to work "just in case". Some of our clients have become trapped in this cycle, when they feel like they can't say no because they can't afford to lose their job. The workers in our community believe that employees should receive the equivalent of one hour's pay if the schedule is changed with less than a week's notice, and 4 hours of pay if the schedule is changed within less than 24 hours' notice.
- On the subjects of health and workers not being able to afford to take time off, paid sick days are an extremely important section that we are missing under the ESA. Many studies show that presenteeism (people going to work while sick) is costing employers more in unproductivity, then if they offered paid sick days (please see attached list of articles on this subject).
- Paid sick leave would also help take away our culture of fear at work, where workers are afraid to get in trouble for staying home, and so they come into work sick and infect everyone else, then next thing you know multiple workers need time off sick. Our suggestion is that all employees shall accrue a minimum of one hour of paid sick time for every 35 hours worked. For a full-time employee this averages out to approximately 7 paid sick days per year, and if you have the flu like I did this year, it's not difficult to use up those days sometimes. I tried to go to work on my third day of being sick, because I felt guilty not being there, and I almost fainted because I was not well enough to be there & I was extremely unproductive.
- Most years workers probably wouldn't even use their sick days, but when they are needed, these days must be available. It can be very beneficial for all parties in the workplace, and many health professionals agree.

- One of the biggest issues we see at the Centre is wrongful dismissal – employees being fired for exercising their rights. We've had one worker fired for asking her boss to investigate into a harassment issue at work, we've had one client who was terminated for asking about her pay and letting other co-workers know that they shouldn't be working more than 13 hours in a day, we've had one client who's hours were cut when he asked to get his owed overtime pay as he hadn't received any of it in the past 4 years of working for the same employer. These situations are unacceptable and again feed into that fear culture, where workers feel as though they can't speak up about their rights without losing their job. Doing this review, closing the gaps and raising the floor of minimum standards will not do anything if our rights are not enforced. Our current system relies on workers to enforce their own rights and they usually face reprisal when doing so.
- In a small town like Sudbury, many workers feel as though they cannot exercise their rights without being seen as a "trouble maker" and their employer slanders them around town, and then they have a difficult time finding another job. This is unacceptable. Employers should be reprimanded for illegal reprisals towards workers.
- Without active enforcement of our standards in all workplaces, workers have little protection when their employers violate employment standards. We suggest that support be given to workers who exercise their rights. Anti-reprisal protections need to be strengthened, Ontario should increase the cost of violations, and make the claim process fair and more worthwhile for workers. Better enforcement, responsible employers and respected employees will go a long way to building healthier communities and good jobs.
- These improvements to our labour laws will also benefit employers. There is growing evidence that with improved conditions, the work experience is more civilized, workers are more productive and the workforce becomes more stable. Therefore, the best strategy to support business in the modern economy is to level the playing field. Gaps in the ESA that allow some employers to avoid certain rules should be closed. We need to have universal coverage under our law to prevent some employers from taking advantage of these gaps to avoid compliance. Exemptions create huge advantages for some employers over others. This sets some companies at a disadvantage while others face competitive pressures to avoid minimum standards. If these exemptions were repealed it would level the playing field. Business will benefit when all play by the same rules. This is common sense. Happy employees are more productive and levelling the playing field will foster a healthy culture where employers and workers can speak to each other respectfully, and it will also grow competitiveness between all businesses.

- I would like to close by pleading the panelists to take an empathetic stand when listening to these concerns, and understand the impact that the current laws have on a growing number of citizens. This is not only an economic issue, or legal issue, but a moral, political and social issue. We need to change our standards and improve our workplaces.

Thank you,

Nicole Beaulieu

Executive Director

Sudbury Workers' Education & Advocacy Centre

Paid sick leave - Research

PubMed

Summary ▾ 20 per page ▾ Sort by Most Recent ▾

Results: 11

Ensuring equitable access to sick leave.

1. Heymann J, Daku M.
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2. Robertson I, Leach D, Doerner N, Smeed M.
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5. Hansen CD, Andersen JH.
Soc Sci Med. 2008 Sep;67(6):956-64. doi: 10.1016/j.socscimed.2008.05.022. Epub 2008 Jun 19.
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10. Health, absence, disability, and presenteeism cost estimates of certain physical and mental health conditions affecting U.S. employers.

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A Higher Standard

The case for holding low-wage employers
in Ontario to a higher standard

Sheila Block





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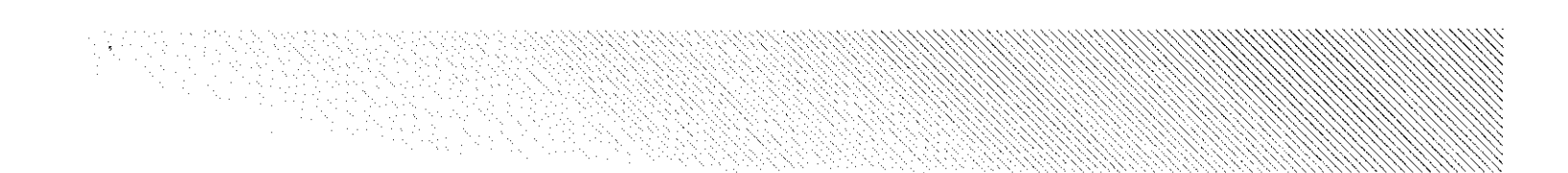
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A Higher Standard

The case for holding low-wage employers to a higher standard

Executive Summary

The Ontario government is reviewing the province's *Employment Standards Act* (ESA) and *Ontario Labour Relations Act* (OLRA). This study draws on Statistics Canada data to track a growing reliance on low-wage, precarious employment in Ontario and how precariously employed workers have less access to the protections of membership in a trade union. This highlights the need to modernize both the ESA and OLRA to better protect marginalized workers. Some of the changes in precarious work are eye-popping:

Growing number of minimum wage jobs: The share of workers earning the minimum wage in Ontario skyrocketed from 2.4 per cent of all employees in 1997 to 11.9 per cent in 2014 – a five fold increase over a 17-year time frame.

Growing number of low-paying jobs: The share of workers making within \$4 of the minimum wage, \$15 in 2014, also exploded over this time period. It rose from 19.8 per cent in 1997 to 29.4 per cent in 2014 – a 48 per cent rise in the share of low-wage workers in Ontario.

Harder to land a 40-hour-a-week job: There is also a bigger share of employees in Ontario working less than 40 hours a week today than there was in 1997: this share grew by 19 per cent, from 42.5 per cent in 1997 to 50.5 per cent in 2014. In other words, one out of two workers in Ontario don't have a 40-hour-a-week job.

Unpredictable hours of work: In 2014, 62.9 per cent of Ontario workers who earned the minimum wage worked in jobs where their hours of work varied from week to week. In other words, unpredictable hours are the norm for most minimum wage workers (six in 10) and for many workers earning between \$11 to \$15 an hour (four in 10).

Unpaid time off the norm for low-wage workers: For those earning more than \$15 an hour, 56.8 per cent were paid when they were away from work for a week. That dropped to 24.9 per cent for those earning between \$11 and \$15 an hour and only 16.8 per cent for those at or below \$11 an hour. The lower the pay, the more likely an Ontario worker is to be forced to take unpaid time off if needed.

Less access to union membership for racialized workers and recent immigrants: Racialized workers had a 30 per cent lower unionization rate than non-racialized workers – 21.8 per cent as compared to 28.4 per cent for non-racialized workers. There is a similar gap for recent immigrants compared to the rest of the population.

Unionization rates for workers in small workplaces: Only 6.7 per cent of workers in private sector workplaces with less than 20 employees are members of a union; this compares to 23.7 per cent of workers in workplaces with 500 or more employees.

While there are new limitations on available data from Statistics Canada, constraining our ability to paint a demographic picture of Ontario's precarious workforce, what is available indicates that racialized, new immigrant, and women workers are far more likely to work in low-paying jobs with fewer guarantees of paid leave, an unpredictable work schedule, and with less likelihood of union membership.

The findings make a very compelling case for modernizing the outdated regulatory laws for workers in Ontario, especially given the dramatic rise in low-paying, insecure jobs and the inadequacy of existing legislation to protect workers.

The report also concludes there is scope for the province to raise the minimum wage, to require employers to schedule more predictable work hours, to set a higher standard for paid leave, and to make it easier for low-wage workers to unionize.