



# Neighbourhood Legal Services

London & Middlesex

By FAX – 416-326-7650

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Ontario Ministry of Labour  
 Changing Workplaces Review, ELCPB  
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To whom it may concern,

## Submissions regarding Personal Emergency Leave

*Neighbourhood Legal Services - London & Middlesex (NLSLM)* has recently started providing legal services in employment law due to a noticed increase in precarious employment, and the increase in vulnerable workers in London. *NLSLM* would like to provide some input regarding the *Employment Standards Act*, as we represent the employees who have a stake in the changes being proposed to the *Employment Standards Act*.

## Problem Regarding Personal Emergency Leave

The biggest concern for Personal Emergency Leave is the fact that it does not cover those individuals whose employers employ less than 50 people. This is a significant concern because those workers who are not covered by the Personal Emergency Leave provisions operate in a grey area – where no right to specific types of absences is given. While ‘good’ employers may create a right to some form of personal emergency leave, other employers will not do so unless required by legislation. The lack of basic rules for these employees opens up potential for abuse.

*NLSLM* has noticed that certain small employers have created their own rules to fill in the gaps of the *ESA* regarding Personal Emergency Leaves. These employers create overtly oppressive rules that essentially require an employee to find a ‘replacement’ for their shift in extremely short time frames, in order to allow a day off. Failure to provide a replacement will warrant disciplinary action, or potential termination. These employers take no responsibility in accommodating an employee, even when given months of advanced notice to take a day off for surgery, for example.

The government also has a financial stake in changes to the Personal Emergency Leave provisions. Precarious employees who are let go due to dubious personal leave issues frequently turn to Ontario Works or Employment Insurance for income alternatives. Due to the nature of precarious employment, these employees may not qualify for Employment Insurance due to a lack of insurable hours of employment. Since Ontario Works is unlikely to satisfy the monthly expenses of an individual, other subsidized programs are likely to be tapped – such as the

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Ontario Energy Support Program. Amendments to the legislation to make some form of Personal Emergency Leave available to smaller businesses will likely reduce the amount of precarious employees who lose their job due to personal leave issues, and thus reduce the pressure on tax payers to subsidize their income.

### Suggested Solution

*NLSLM* suggests that the *ESA* be amended to remove the restriction of Personal Emergency Leave to a certain class of employees - whose employers employ more than 50 people. *NLSLM* is against keeping the status quo, as it provides no protection to employees, and allows employers to operate without any guidance - which could lead to abuses.

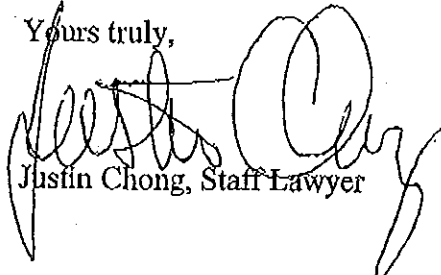
In order to compromise with smaller businesses, *NLSLM* agrees with option 3; remove the threshold for Personal Emergency Leave and break down the 10 day entitlement to separate leave categories with separate entitlements, but with the aggregate still amounting to 10 days. For example, Prince Edward Island allows three days' leave for bereavement and three days for illness and injury. This would reduce the amount of job protected days that could be used toward illness, and thus assist smaller employers.

Finally, another novel suggestion might be to require employers to accommodate employees who give sufficient notice of required time off - for specific legislated reasons. As a result, employees would also be required to give sufficient notice to employers to ensure job protection. While this may not suit all types of leave (ie sick leaves and family deaths are unpredictable), it would meet both the needs of employees who take time off for personal emergencies, and the needs of small businesses for advanced notice of Personal Emergency Leave requests. This method would also likely reduce the incidence of abusing leaves. This would be ideal for personal emergency leaves regarding medical surgeries or important court dates.

### Conclusion

Neighbourhood Legal Services (London & Middlesex) fully supports some sort of Personal Emergency Leave legislation for small businesses with less than 50 employees. As the *Employment Standards Act* operates now, employees of small businesses are vulnerable to oppressive policies regarding Personal Emergency Leave. If the purpose of the changes to the *ESA* is to address vulnerable working populations and the inequality of bargaining power between employers and employees, then the issue of Personal Emergency Leave needs to be addressed.

Yours truly,

  
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