

# Starting the Relationship - Obligations of the Employer

Information from the webpage of Ministry of Labour and Citizens' Services

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

A domestic worker is someone who is hired to live and work in a private home to provide cooking, cleaning, child care or other services.

If you are hiring (or have already hired) a domestic worker, you are an employer. You are responsible for providing a contract of employment for your employee.

You have the right to choose the domestic worker, and set the terms and conditions of employment. You are also responsible for making sure those terms and conditions meet the minimums required under the British Columbia ***Employment Standards Act***.

## A) Registration

A domestic worker must be registered by her or his employer with the Employment Standards Branch Domestic Registry.

If you are planning to bring a domestic worker into Canada - either directly (by yourself) or indirectly (through an employment agency) - you will need to register your intent to hire a domestic worker with the Branch. You must provide the Branch with the name of the domestic worker within 30 days of hiring them.

The Government of Canada requires proof of Branch registration before it will process your application to admit the domestic worker to Canada.

## B) Employment contract

The Act requires the employer and the domestic worker to sign an employment contract (sometimes called an employment agreement) before work begins. The contract outlines the terms and conditions of employment, and must include:

Duties the domestic worker will have to perform.

Hours the domestic worker will have to work in a day, and the days in a week.

Wage rate - the minimum allowed is \$8 an hour.

If a monthly or yearly salary is paid, it must at least equal minimum wage for all hours worked.

The maximum charge for room and board is \$325. (This amount is subject to change by regulation).

The contract may also cover other terms and conditions.

## C) Hours of work

The employer has the right to set the domestic worker's work schedule. However, because domestic workers live in their employers' homes, the line between being "at work" and "not at work" is often unclear.

If the employer asks the domestic worker to baby-sit, or perform other duties outside of the normal agreed hours of work, that time is work and must be paid appropriately.

Unless there is an emergency, domestic workers must have at least eight hours free from work between shifts and 32 consecutive hours free from work each week. Domestic workers can be required to work a split shift; however, the split shift must end no later than 12 hours after it starts.

The employer must keep a record of daily hours worked, even if the domestic worker is paid a salary instead of an hourly wage.

## D) Overtime pay

Overtime pay is the extra rate of pay for time worked **over** either **eight hours in a day**, or **40 hours in a week**.

**Daily overtime** (earned after working eight hours in a day):

Hours over 8/day = 1.5 x regular wage

Hours over 12/day = 2 x regular wage

**Weekly overtime** (earned after working 40 hours in a week\*): Hours over 40/week = 1.5 x regular wage

*\*When determining overtime, a week is seven consecutive days, starting on Sunday.*

Where the Branch has approved a variance or the domestic worker works under an averaging agreement, overtime may not have to be paid. ([See factsheet: Averaging Agreements.](#))

The domestic worker may also store overtime in a time bank. ([See factsheet: Hours of Work and Overtime.](#))

## E) Payroll requirements

Employers must pay wages at least twice a month, and within eight days of the end of a pay period. Wages can be paid by cash, cheque, or money order, or with the employee's agreement, payment can be made by direct deposit to the employee's bank account.

The employer must prove payment of wages and provide the employee with a statement of wages (pay stub). If payment is made by cash, a receipt should be obtained.

If there has been no change in the calculation from the previous pay period, no wage statement need be provided.

Employers must keep payroll records including:

- Domestic worker's name and date of birth.
- Date the employee started work.
- Wage rate.
- Hours worked each day.
- Amount and type of benefits.
- Gross and net wages.
- Amount and purpose of each deduction.
- Dates statutory holidays were taken, and the amount of pay earned.
- Dates of annual vacation, and the amount of vacation pay earned.

These records must be kept in English, at the employer's residence, for two years after the domestic worker's employment ends.

## F) Deductions

A deduction is any amount of money taken by an employer from wages owed to an employee. The employee must authorize all deductions other than income tax, Employment Insurance (EI) premiums and Canada Pension Plan (CPP) contributions, in writing.

Deductions must benefit the employee. Costs of doing business cannot be passed on to an employee.

## **G) Room and board**

The employer and domestic worker must agree on the amount charged for room and board, which cannot be over \$325/month (subject to change by regulation). If room and board will be deducted from the employee's pay, the employee must first agree in writing.

## **H) Holidays and vacation pay**

Statutory holidays are working days off with pay. An employee who has been employed for 30 calendar days, and worked 15 of the days previous to the holiday, is entitled to statutory holiday pay. (See fact sheet: Statutory Holidays)

## **I) Annual vacation**

After working for one full year, a domestic worker is entitled to at least two weeks vacation and vacation pay. After working five complete years, the entitlement increases to three weeks. (See fact sheet: Annual Vacation)

If a domestic worker leaves part way through a year, the employer owes vacation pay on total gross wages earned since the last vacation at four percent if less than five years, and at six percent if the domestic worker has been employed more than five years.

A vacation does not include those occasions when the domestic worker goes with the employer on a trip, or is left behind in the empty residence, if she or he is required to work. The timing of the vacation is the employer's choice, but must be at least one week long.

## **J) Leaves**

Domestic workers are entitled to unpaid leaves of absence without pay for any of the following reasons: pregnancy, parental, family responsibility, bereavement and jury duty. ([See fact sheet: Leaves of absence](#))

## **K) Ending the employment relationship**

The Act does not require a domestic worker to give their employer notice they are leaving employment.

Under the Act, an employee who is fired, either with "just cause" ([See fact sheet: Just cause](#)) or after working for less than three months, is not entitled to compensation for length of service (also called termination or severance pay).

The amount of pay or working written notice the employer must provide increases with the length of employment. Annual vacation pay is payable on severance pay.

If a domestic worker quits, the employer has six days to pay wages owing.

If a domestic worker is fired, the employer has 48 hours to pay wages owing.