

(though it may be a wrongful dismissal, or an employment standards issue).

In some cases, employees may have more than one option for filing a complaint. If an employer fires an employee who has done nothing wrong simply because of the employee's ancestry, and gives the employee no notice (or pay instead), the employee may be able to file both an employment standards complaint (for example, requesting two weeks pay), and a human rights complaint (claiming that the firing was based on ancestry).

There are time limits for filing human rights complaints (six months under the Manitoba statute; one year under the federal statute). Though there may be exceptions, if you wait too long, your complaint may be dismissed.

### **Workers' Compensation**

Most, but not all, workplaces are covered by workers' compensation. If you are not sure about your workplace, and you have a union, ask your union. If you have no union, phone the Workers' Compensation Board (954-4321), or phone the Workers' Advisor office (945-5787).

Workers compensation is a no-fault system for employees injured on the job. If there were no workers' compensation laws, those employees would be able to sue their employers for negligence. However, if the injury was a true accident, and the employer was not negligent, the employee would get nothing at all. Under workers' compensation laws, it doesn't matter if the employer was negligent. If the employee was injured on the job, they can apply for workers' compensation benefits, but they no longer have the right to sue their employer for negligence.

If you are having a dispute with the Workers

Compensation Board, you may want to contact the Workers' Advisor office (945-5787) for assistance.

### **Employment Insurance**

Most, but not all, employees are covered by Employment Insurance (EI). Firstly, when your job ends for any reason, your employer must give you a Record of Employment (ROE) form. The ROE will explain why your job ended (for example, shortage of work). Depending on several factors, including how many weeks you have worked, you may be eligible for EI benefits. If you quit your job or were fired for misconduct, you may not be eligible for EI benefits. There are exceptions (like if you quit because you are being sexually harassed). To contact the EI authorities, call toll free 1-800-206-7218.

The EI system has a separate appeal process. A decision to deny you benefits may be appealed to the Board of Referees. Decisions of the Board of Referees may be appealed to the Umpire.

You may also be able to collect EI benefits when you go on maternity leave. Contact EI to see if you qualify. If you have a union, the union may also be able to give you information about this.

Some collective agreements contain "top up" payments for women taking maternity leave. Contact your union if you have questions about this.

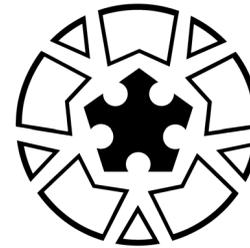
If you are having a dispute with the EI authorities, you may want to contact the Community Unemployed Help Centre (phone 942-6556 or toll free 1-866-942-6556). The Centre is a non-profit organization, which provides free information and assistance with some EI matters.

If you have any dispute with your employer, keep good records, including copies of all documents.

The phone numbers in this brochure may change over time. Please check a telephone directory for those up to date phone numbers.

This publication was written by Mr. Elliot Leven of Elliot Leven Law Corporation and produced by Community Legal Education Association © 2007

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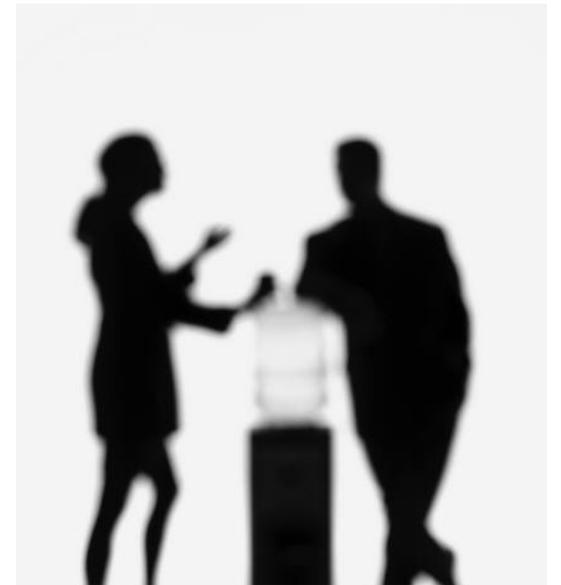
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# Basic Legal Information for Manitoba Employees



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Most Manitoba workplaces fall within provincial jurisdiction. That means that Manitoba laws like the *Labour Relations Act*, the *Employment Standards Code* and the *Human Rights Code* apply to them.

Some Manitoba workplaces (Such as federal government and federal Crown corporations, banks, railroads, airlines and airports and phone companies) fall within federal jurisdiction. That means that federal laws like the *Canada Labour Code* and the *Canadian Human Rights Act* apply to them.

All these laws can be found on government websites. Manitoba laws can be found at:

<http://web2.gov.mb.ca/laws/statutes/index.php>.

## **If You Have a Union**

Your rights as an employee depend partly on whether or not you have a union. If you have a union and a collective agreement, most of your rights as an employee are set out in your collective agreement. (A collective agreement is a contract between an employer and a union on behalf of employees.)

If those rights are violated, your union can file a grievance on your behalf. (A grievance is a written complaint that the collective agreement has been violated.) If the grievance is not resolved, it can go to arbitration. (Arbitration is a way of resolving grievances – both parties make their arguments, and a neutral arbitrator makes a binding decision based on those arguments and the wording of the collective agreement.)

Arbitrators can issue binding awards. For example, if your employer improperly fired you, an arbitrator can order the employer to rehire you.

The time limits for filing grievances are usually fairly short, sometimes just a few days. So, if you think you have a valid grievance, contact your union immediately, without delay.

There may be some rights not included in the collective agreement. In some workplaces, there may be group insurance plans outside of the collective agreement. If the insurance company improperly denies you benefits, your only remedy may be to sue the insurance company in court. If you are not sure, ask your union.

## **If You Don't Have a Union**

If you don't have a union and a collective agreement, you have more limited rights. Firstly, you have a contract, either written or verbal. Most verbal contracts just include basic terms like salary and hours of work. Written contracts may be more elaborate, and may contain unique terms. Unless the contract violates a law (for example, includes wages lower than minimum wage), both parties will be bound to it. If you have a written contract, always insist on getting a copy of it, and keep it in a safe place.

Some contracts are term contracts (for example, for one year). That means that when the term ends, the job ends, unless both parties agree to a new contract. Employers don't have to give employees notice (or pay instead of notice) when a term contract comes to an end. Some contracts are indefinite.

That means they have no fixed termination date. Unless the contract contains specific terms about termination, the general rule is that employers must give reasonable notice (or pay instead of notice) if they want to terminate the contract. What is reasonable depends on all relevant factors, but the most important is how long the employee has been working.

The main exception is when employers terminate employees for just cause. This generally means serious wrongdoing: either a series of incidents of misconduct or, sometimes, a single very serious incident (such as major theft from the employer). In that case, no notice (or pay instead of notice) is required.

If your employer improperly fires you, you may be able to go to court (the Manitoba Court of Queen's Bench) to sue the employer for wrongful dismissal. You will have to find your own lawyer, or represent yourself. If the court decides that you were wrongfully dismissed, it can't order your employer to reinstate you, but it can order your employer to pay you damages (money). The amount of damages will depend on several factors. The most important factor is usually how long you were employed.

## **Employment standards**

Most Manitoba employees have basic rights under employment standards laws. In workplaces under provincial jurisdiction, this means the *Employment Standards Code*. Some types of employees (for example, some professionals) are not covered by the Code.

The Code provides minimal standards. For example, it provides for minimum wages, paid vacations, paid holidays (sometimes called "statutory holidays"), standard hours of work (usually eight hours a day, and 40 hours a week), and minimal notice of termination (or pay instead of notice).

If your employer violates the Code, you can file a complaint with Employment Standards (945-3352). Employment Standards will investigate. In some cases, the dispute may go to the Manitoba Labour Board, which will hold a hearing. The Board can make binding orders, forcing employers to pay money to employees.

If your workplace is in federal jurisdiction, and you want to file an employment standards complaint, phone 983-6375.

There are time limits for filing employment standards complaints (usually six months). If you wait too long, your complaint may be dismissed because of your delay.

## **Human Rights**

In addition to other rights, employees have rights under human rights laws. These laws contain prohibited grounds of discrimination (including things like age, sex, ancestry, religion, sexual orientation and other grounds). If your employer discriminates against you on the basis of the prohibited grounds, you can file a human rights complaint. In Winnipeg, phone the Manitoba Human Rights Commission at 945-3007, or the Canadian Human Rights Commission at 983-2189.

If your employer is generally unfair to you, but the unfairness is not based on one of the prohibited grounds, that is probably not a human rights issue.