



Employment Standards Act

Domestic and sexualized violence job-protected leave

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Domestic and sexualized violence job-protect leave

The *Employment Standards Act* provides job protected leave to victims of domestic violence and victims of sexualized violence. Employees may also use the leave if they are a victim of domestic or sexualized violence or supporting a child, family member, intimate partner, or close friend who is the victim of domestic or sexualized violence. (Section 60.03.01 of the Act)

Who can take job protected leave?

All employees can use domestic or sexualized violence leave if they are:

- a victim of sexualized violence, which includes sexual assault and violence targeted at the victim because of their sexuality or gender;
- a victim of domestic violence, which includes violence by a family member or intimate partner;
- a person supporting a child, family member, intimate partner, or close friend who is the victim of domestic or sexualized violence.

How does the Act define domestic violence?

The Act defines domestic violence as:

- an act or omission that causes physical harm;
- an act or omission that causes damage to the victim's property;
- an act or threat that causes the victim to reasonably fear physical harm or damage to their property;
- psychological or emotional abuse;
- forced confinement; or
- any conduct that deprives the victim of food, clothing, medical attention, shelter, transportation, or the necessities of life.

How does the Act define sexualized violence?

The Act defines sexualized violence as:

- a sexual act or an act that targets the victim's sexuality, gender identity or expression;
- a threat or an attempt to target the victim's sexuality, gender identity or expression;
- sexual assault, sexual harassment, stalking, sexual exploitation, indecent exposure or voyeurism.

Reasons for taking the leave:

An employee may take domestic or sexualized violence leave if they need time to rest, recover, heal or seek services such as, but not limited to:

- medical attention;
- services from a victim services or social services organization;
- psychological or professional counselling;
- legal or law enforcement assistance;
- moving or relocation.

How long is the leave?

The length of the leave depends on how long the employee has been employed:

| Immediately upon employment | After three months of continuous employment |
|-----------------------------|---|
| Five days of unpaid leave | Five days of unpaid leave |
| | Five days of paid leave |
| | Up to 15 weeks of unpaid leave |

An eligible employee who has had three continuous months of employment may take up to 15 weeks of leave with the consent of their employer. The leave can be taken all at once or broken up as agreed to with the employer.

How the wage rate is calculated

If an employee works irregular hours and takes paid leave, their daily wage is calculated differently.

| Regular hours and regular wage rate | Irregular hours or varied wage rate |
|--|---|
| Daily wage rate for regular hours = the wages that the employee would have been paid if the employee had worked their regular hours Example: Hourly wage rate: \$15.20 Regular pay: 8 hours per day. $\$15.20 \times 8 = \121.60 | Daily wage rate for irregular hours = five percent of the employee's total wages, excluding overtime, for the four week period before the first day of leave Example: Hourly wage rate: \$15.20 Employee worked 50 hours over four weeks: $\$15.20 \times 50 = \760.00 Daily wage rate: $5\% \times \$760 = \38.00 |

Is the employer allowed to ask for proof?

No, an employer cannot ask for proof. An employee should give their employer as much notice as possible before taking the leave.

An employer may require that an employee submit the Notice Form but cannot ask for proof or a doctor's note, or any other form of verification.

Employers must keep the reason for the leave and other personal details about the employee confidential and only share critical information as required with other staff, such as with Human Resources.

Is there anyone who cannot use this leave?

An employee may not access this leave if they perpetrated the domestic or sexualized violence.

Employees are eligible if the *Employment Standards Act* applies to them (Employees of the Yukon government or federally regulated industries are covered separately for special leave under different acts).

For more information

This fact sheet is prepared for general information purposes and the *Employment Standards Act* has precedence.

For more information, contact an Employment Standards Officer at 867-667-5944 or by email at eso@yukon.ca.

More support: [Victim Services](#)