



EMPLOYMENT STANDARDS RESOURCE GUIDE

Disclaimer: This Employment Standards Resource Guide has been compiled as a reference only. The content is not intended to be a substitute for Employment Standards fact sheets. Always contact the Employment Standards office directly for any further questions or information.

**Phone: 204-945-3352 or toll free in Canada 1-800-821-4307
<http://www.manitoba.ca/labour/standards>**

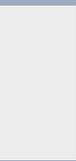
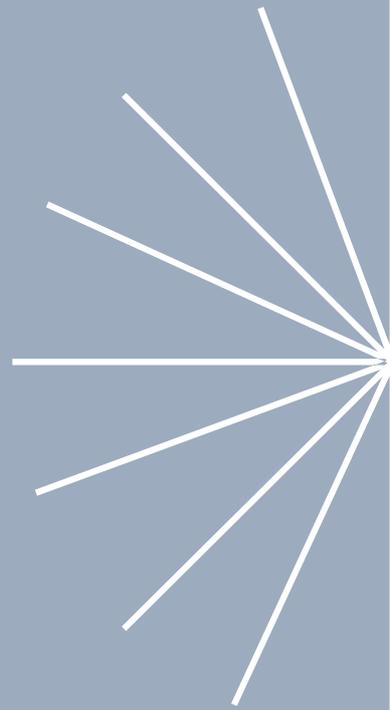


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PAYING WAGES AND KEEPING RECORDS

Are employers required to keep records?

Employers must keep good and accurate records for all employees that show:

- Name, address, date of birth, and occupation
- The date the employment started
- The regular wage and overtime wage at the start of employment and whenever the wage rate changes
- The regular and overtime hours of work, recorded separately and daily
- Date wages are paid, and the amount paid on each date
- Deductions from wages, and the reason for each deduction
- If applicable, overtime that is banked with the written agreement of the employee and employer and the dates the employee takes the banked time off with pay
- The dates on which general holidays are taken
- The employees' hours of work on a general holiday and the wages paid
- Start and end dates of annual vacations, the period of employment in which the vacation is earned, and the date and amount of vacation wages paid.
- The amount of any outstanding vacation wages when the employment ends and the date this is paid to the employee
- Copies of documents on maternity leave, parental leave, compassionate care leave or other leaves, including dates and number of days taken as leave
- Dates of termination of the employment
- Copies of work schedules

Employers must ensure that all information is up to date. Hours of work must be updated daily and other information such as employee addresses should be kept up to date. In addition, employers should keep records showing addresses, dates of birth, and wage changes for three years after the termination of employment.

Employers should also familiarize themselves with additional record keeping requirements as outlined by Canada Revenue Agency.

How often should employers pay their employees?

Employees must be paid at least twice a month, and within 10 working days of the end of a pay period. If their employment has been terminated, the employer must pay the employee within 10 working days from the date of termination.

Employers are required to pay employees at least minimum wage. They can offer a higher wage, offer raises and negotiate different wages.

As per the Employment Standards Code, employers cannot discriminate based on gender by offering male employees a different wage than female employees.

When should an employer provide a pay statement to the employee?

Employers must provide written pay statements to employees when they are paid. If the wage payment is the same over a period of time, the employer can provide a statement showing wages to be paid, wage rate, deductions, and net amount on each of the dates. Pay statements can be both electronic and hard copies.

Pay statements must show:

- The regular wage and the number of regular hours worked in the pay period
- The overtime wage and any overtime hours worked in the pay period
- All deductions from wages, with a date and reason for each deduction
- The total amount of wages paid to the employee

THE MANITOBA EMPLOYMENT STANDARDS PAYING WAGES AND KEEPING RECORDS FACT SHEET WAS REFERENCED FOR THIS SECTION.

TO REVIEW IT OR FOR MORE INFORMATION PLEASE VISIT:

<https://www.gov.mb.ca/labour/standards/doc,record-keeping,factsheet.html>



HOURS OF WORK AND BREAKS



What are the standards hours of work?

Standard hours of work are 40 hours per week and 8 hours per day. Employees are paid overtime if they exceed these hours. Overtime is paid at 1½ times the regular wage rate.

Most employees are entitled to a rest period of no less than 24 consecutive hours each week. Employers decide the day of rest for employees depending on the work. The day of rest does not have to fall on the same day of the week. Employers are not required to pay wages for a weekly day of rest.

Scheduling shifts for employees

The employer is responsible for scheduling. This may include creating a work schedule and approving employee schedules. An employer can consult an employee when creating a schedule, but this is not required.

The employer can adjust hours of work for the employee at any time, such as reducing number of hours, cancelling a shift, or increasing number of hours. Changes can also be made after a shift has started; however, an employee should be paid for at least three hours, or the time worked, whichever is greater if the scheduled shift is longer than 3 hours. For example, if an employee is scheduled to work for 8 hours, but is sent home after 2 hours, the employee is entitled to wages for 3 hours of work.

If the scheduled shift is shorter than 3 hours, employees are entitled to be paid for the length of the scheduled shift. For example, if an employee is scheduled for 2 hours, but is sent home after 1 hour, the employee is entitled to wages for 2 hours of work.



Nancy starts her shift at 7am. At 9am, the employer realizes that they no longer need Nancy to stay for the entire shift. The employer can adjust Nancy's schedule, but is required to pay Nancy for three hours work for that day. If the employer adjusts Nancy's schedule to 12pm, then the employer would pay Nancy for 5 hours, which is equivalent to the time worked.

Work Breaks

Employees are entitled to an unpaid 30-minute break after 5 hours of consecutive work. Employers can provide additional breaks such as coffee breaks, cigarette breaks or other meals breaks. Offering these additional breaks is not required by law.

A break is a time when employees are on their own time and free of all responsibility. They can choose to leave the workplace during their breaks. Employers are not required to pay employees for breaks but can choose to do so.

Employers can apply to be exempted from the work break order to eliminate breaks if the work involves caring for someone who cannot be left unsupported. In this case, employees have the discretion to take the break during downtime at work. Employees must also be paid for their entire shift.



THE MANITOBA EMPLOYMENT STANDARDS HOURS OF WORK AND BREAKS FACT SHEET WAS REFERENCED FOR THIS SECTION. TO REVIEW IT OR FOR MORE INFORMATION PLEASE VISIT:

<https://www.gov.mb.ca/labour/standards/doc,hours-and-breaks,factsheet.html>

VACATION AND VACATION PAY



How much vacation time should an employee get?

Employees are entitled to at least 2 weeks of vacation for their first four years of employment with the same employer. Employees are entitled to 3 weeks of vacation for any additional consecutive years worked.

Employers can choose to pay out this amount on every pay cheque, or they may choose to pay it out at the time of the vacation leave. Employees who have it paid out on every pay cheque are still entitled to take time off as vacation, but because it has already been paid, they do not receive any additional vacation pay while they are off.

How does an employer calculate vacation pay?

Employers decide how vacation pay is to be paid. However, vacation pay must be paid no later than the last day of work before the vacation and within 10 months of earning it.

Vacation pay is calculated based on the gross earnings of the previous year. Employees are paid vacation pay at 4% of their gross wages and entitled to two weeks of vacation each year.

After employee has completed their fifth year of employment: Employee is paid vacation pay at 6% of their gross wages and entitled to three weeks of vacation each year.

Employers can offer employees more vacation than is required by law.

Gross wages are comprised of all regular wages and general holiday pay. Overtime wages, wages in lieu of notice, and the previous year's vacation wages are not included in the calculation.

Unpaid leaves provided under the Employment Standards Code are factored in when determining the number of years served. Employees who return to work after their unpaid leave are entitled to their full vacation time i.e. 4% up to 4 years of service and 6% after the five years of service.

When is vacation time for employees scheduled?

Employees start earning vacation time from their first day of employment with the employer. They are eligible to take vacation time after their first year of employment and must take their vacation within 10 months of being earned. The employer and employee agree on when the vacation time will be taken.

If the employer and employee do not agree on when the vacation time will be taken, the employer can make a final decision. The employer is required to give the employee 15 days' notice before the vacation is to be taken. The set vacation time cannot be shorter than one week.

Employers can set a common date for which all employees receive their new vacation entitlements. For employees who start their employment before this anniversary date, vacation pay earned will be paid out on the anniversary date before the calculation restarts.

How does termination of employment impact vacation pay?

Once the employment relationship comes to an end, if there is any vacation time that the employee did not take, this time must be paid out at the vacation pay rate within 10 days from the last day worked.

Employees who have not completed their one year of service will be paid for the amount of vacation time accumulated since the beginning of their employment until their last day of employment.

Employers cannot use vacation for the notice period when terminating employment. When employees are terminating employment, they may use vacation for the notice period if the employer agrees. Employees are entitled to all outstanding vacation pay when their employment ends.

THE MANITOBA EMPLOYMENT STANDARDS VACATIONS AND VACATION PAY FACT SHEET WAS REFERENCED FOR THIS SECTION. TO REVIEW IT OR FOR MORE INFORMATION PLEASE VISIT:

<https://www.gov.mb.ca/labour/standards/doc,vacations,factsheet.html>



GENERAL HOLIDAYS

Which general holidays are recognized in Manitoba?

General holidays are often referred to as statutory holidays. These are days recognized by the law as holidays. Employees often have these days off from work or are paid differently if they work. Most employees are paid for these days whether or not they work.

Statutory holidays in Manitoba are:

- New Year's Day
- Louis Riel Day
- Good Friday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day

Easter Sunday, Terry Fox Day, Day of Truth and Reconciliation, and Boxing Day are not considered statutory holidays and are not required to be paid as such. Employers can choose to pay these days as statutory holidays.

Remembrance Day is not a statutory holiday, though there are special requirements for employees who work to be paid at 1½ times their regular wage rate per the Remembrance Day Act.

How does an employer calculate general holiday pay?

For employees who work consistent hours of work each day, they receive one regular workday's pay as general holiday pay.

Stacey consistently works 8 hours a day for 40 hours a week. Stacey's general holiday pay will be equivalent to one day (8 hours) of pay at regular wage rate.

For employees whose hours of work or wages vary, general holiday pay is calculated at 5% of the gross wages (not including overtime) in the 4-week period immediately before the holiday.

Alex works varying hours each day throughout the week. In the last four weeks, Alex earned gross pay of \$1,920. The holiday pay will be calculated as 5% of the \$1,920 (5% x \$1,920) which is \$96. The \$96 therefore become the general holiday pay for Alex.

Employees who work on a general holiday are entitled to 1½ times their regular rate of pay for the hours worked on that day in addition to their general holiday pay. All employees are entitled to general holiday pay unless:

- They were scheduled to work on the general holiday but were absent from work without the employer's permission.
- They were absent from work the day before or the day after the general holiday, without their employer's permission.



What happens if a general holiday falls on an employee's weekly day off?

If a general holiday falls on the weekend, the employee must get the next regular workday off with general holiday pay.

If the general holiday falls on a weekday that the employee does not normally work, the employee should get a normal workday off with general holiday pay. This must be given before the employee's next vacation, or at another time agreed by the employee.

The wages paid for a general holiday are considered hours worked for the purposes of overtime and must be included when calculating employees' hours of work.

A general holiday does not substitute for a weekly day of rest.

Can general holidays be considered as employee vacation time?

General holidays cannot be considered to be vacation days. Employees are entitled to an alternative date off if the general holidays fall on their vacation. Employees will receive holiday pay for the alternative day.

THE MANITOBA EMPLOYMENT STANDARDS GENERAL HOLIDAYS FACT SHEET WAS REFERENCED FOR THIS SECTION. TO REVIEW IT OR FOR MORE INFORMATION PLEASE VISIT:

<https://www.gov.mb.ca/labour/standards/doc/gen-holidays-after-april-30-07,factsheet.html>

OVERTIME

What is considered overtime work?

General holidays cannot be considered to be vacation days. Employees are entitled to an alternative date off if the general holidays fall on their vacation. Employees will receive holiday pay for the alternative day.

General holidays are considered hours of work and should be factored in when calculating overtime.

The employer work records should keep track of the employees' schedule to determine overtime work. Standard hours of work are 40 hours per week and 8 hours per day. Employees are paid overtime if they exceed these hours, unless they have a valid Averaging Agreement or Averaging Permit. Overtime is paid at 1½ times the regular wage rate.

Below is an example of a schedule that demonstrates when overtime is worked.

Employee Work Schedule								
Week of November 1 st – 7 th								
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total	Overtime
1 st	2 nd	3 rd	4 th	5 th	6 th	7 th		
0	8	8	8	8	8	8	48	8
0	8	4	8	10	6	0	36	0
0	8	10	7	4	9	0	38	2
5	6	9	6	8	9	0	43	3

How is overtime work approved for employees?

Employers have to approve any overtime work for employees before it takes place. Employers can request employees to work overtime, allow employees to work overtime or acknowledge that employees will work overtime. An agreement can be made between the employee and employer at the beginning of the employment to acknowledge that a certain number of overtime hours is required. Overtime is voluntary or by agreement, except in declared emergencies.

Employers who require staff to work more hours than the standard hours of work but do not want to pay overtime (due to the nature of support or schedule) can create an Averaging Agreement with employees or apply for an Averaging Permit from Employment Standards. Specific criteria must be met and employees must sign that they are aware and agree to the arrangement.

THE MANITOBA EMPLOYMENT STANDARDS OVERTIME FACT SHEET, AVERAGING AGREEMENT FACT SHEET, AND AVERAGING PERMIT FACT SHEET WERE REFERENCED FOR THIS SECTION. TO REVIEW THEM OR FOR MORE INFORMATION PLEASE VISIT:

<https://www.gov.mb.ca/labour/standards/doc,overtime,factsheet.html>

https://www.gov.mb.ca/labour/standards/doc,averaging_agreements,factsheet.pdf

https://www.gov.mb.ca/labour/standards/doc,varying_hours_work,factsheet.pdf

LEAVE OF ABSENCE

What are the legislated leaves of absences in Manitoba?

The Employment Standards Code provides several leaves of absence to allow employees time to deal with certain events in their lives without risking the loss of their job. These are legislated leaves when employees can take time off work without needing the consent of the employer.

The table below outlines some of the most common leaves of absence:

Type of Leave	Qualifying Period	Length of Leave	Reason for Leave
Maternity Leave	7 months	17 weeks	For an employee expecting to give birth to a child
Parental Leave	7 months	63 weeks	For parents to care for their new child
Family Leave	30 days	3 days	For an employee to deal with family responsibilities or personal illness
Bereavement Leave	30 days	3 days	For an employee to deal with the death of a family member
Compassionate Care Leave	90 days	28 weeks	For an employee to care for a seriously ill family member
Long-term Leave for Serious Injury or Illness	90 days	17 weeks	For an employee who has a long-term serious injury or illness

What is the role of the employee in requesting for a leave?

The employee is required to inform the employer of the leave they are taking. They are required to provide a specific amount of notice depending on the leave. The employer reviews records of employment of the employee to ensure they meet the requirements of the leave.

The employer should always clarify with the employee that they are requesting a leave under The Employment Standards Code and not other time off work. Employers do not control when employees can take a leave provided under The Employment Standards Code but can control other types of time off work.

Can an employee be terminated during their leave of absence?

Employers cannot terminate or lay-off employees because they have taken or requested a leave. Employers may not discriminate or attempt to punish employees for taking a leave.



What happens when an employee returns to work after a leave of absence?

Employees should be allowed to return to the position they had before. If this position was filled during the leave, the employee must be given a similar position with the same or greater benefits and pay.

Employee vacation is not affected by the leave of absence. An employee is entitled to the same amount of vacation regardless of whether they took a leave of absence. Employees may choose to defer taking vacation time.

THE MANITOBA EMPLOYMENT STANDARDS LEAVE OF ABSENCE FACT SHEET WAS REFERENCED FOR THIS SECTION. TO REVIEW IT OR FOR MORE INFORMATION PLEASE VISIT:

<https://www.gov.mb.ca/labour/standards/doc,overtime,factsheet.html>

TERMINATION OF EMPLOYMENT

How is an employment relationship terminated?

Both the employer and employee can terminate an employment relationship through a written notice. Employees continue to work their regular hours and duties at the same rate of pay during the notice period. Employers and employees do not need to give notice of termination when the employee has been employed for less than 30 days.

How much notice of termination is required from employees?

An employee is required to give notice of termination of employment based on the following:

<i>Period of Employment</i>	<i>Notice Period</i>
At least 30 days but less than one year	One week
At least one year	Two weeks

How much notice of termination is required by employers?

Employers must give termination notice to their employees within the following timelines. The employer can allow the employee to work during this period, or pay wages in lieu of notice or a combination of both.

Employees who work the same hours every week receive their regular earnings for wages in lieu of notice. For employees who work varying hours every week, wages in lieu are based on the average of the earnings for regular weekly hours worked over the last 6-month period. Vacation wages and overtime wages are not added to wages paid in lieu of notice.

<i>Period of employment</i>	<i>Notice period</i>
At least 30 days but less than one year	One week
At least one year and less than three years	Two weeks
At least three years and less than five years	Four weeks
At least five years and less than ten years	Six weeks
At least ten years	Eight weeks

What are the exceptions to giving notice of termination?

There are a few circumstances where there are exceptions to giving notice of termination:

- When employees are placed on a temporary layoff period of no more than 8 weeks in a 16-week period.
- When the employer can prove just cause
- When employment is for a specific length of time or a specific task or job

If the employer acts in a manner that is improper or violent toward the employee



What does it mean to terminate an employee through a just cause?

An employer can terminate an employee on grounds of a just cause if the employer can demonstrate that the employee's behavior was serious and is not consistent with the employment agreement. Examples of these include stealing, dishonesty, and violence, habitual neglect of duty, insubordination, and conflict of interest.

If the nature of the behavior is serious (such as an act of assault), this reason is enough to terminate an employee without notice. The impact of this type of behavior damages the employment relationship moving forward. However, for situations like missed shifts, unpunctuality and underperformance, the employer must demonstrate that they took the necessary steps to correct the behavior such as the steps below:

- Notifying the employee of the behavior not being met
- Allowing the employee reasonable time and supports to correct the behavior, whenever possible
- Warning the employee of the possible consequences if the behavior is not corrected.

Anytime an employee is being terminated, consult with Employment Standards to ensure the termination is lawful.

<https://www.gov.mb.ca/labour/standards/index.html> or 204-945-3342 or 1-800-821-4307

THE MANITOBA EMPLOYMENT STANDARDS TERMINATION OF EMPLOYMENT FACT SHEET WAS REFERENCED FOR THIS SECTION. TO REVIEW IT OR FOR MORE INFORMATION PLEASE VISIT:

<https://www.gov.mb.ca/labour/standards/doc,terminate-employment-after-apr-30-07,factsheet.html>

