

# **DOMESTICS' CROSS-CULTURAL NEWS**

monthly newsletter of the Toronto Organization for Domestic Workers'

August 1989

(INTERCEDE)

## **EMPLOYMENT RIGHTS OF DOMESTIC WORKER**

While it has not always been so, domestic workers now have most of the legal rights in employment that other workers in Ontario have.

Note that you have these rights whether or not you have status. However, problems can arise with respect to enforcement of these rights. In particular, none of the government agencies involved will guarantee your anonymity.

Unfortunately, domestic workers seeking to become permanent in Canada are usually reluctant to have their rights enforced thinking that conflicts with their employers could mar a "satisfactory" work record which is a criteria for obtaining landed status. Then, too, even when employers violate the rights of domestic workers, they often do not face severe sanctions.

Still, it is important that domestic workers know what their rights are and strive to have these rights enforced.

Under the Employment Standards Act (ESA), domestics, nannies or sitters who work more than 24 hours a week are entitled to most of the legal minimums that other workers in Ontario are entitled to:

- Minimum wage currently set at \$4.75 per hour (increasing to \$5.00 per hour as of October 1, 1989);
- Overtime pay at the rate of 1.5 times the normal rate of pay is to be paid for all hours worked in excess of 44 hours per week or, if you agree, an amount of paid time off equal to 1.5 times the amount of time worked shall be granted within the next 12 weeks;

- Room and board can be deducted at the rate of: \$22 per week for a single room; \$10.50 per week for a shared room; \$37.50 per week for meals (at \$1.80 per meal).

No deduction is allowed unless you actually occupy the room and eat the meals. You are entitled to a refund if deductions are made for meals you did not take or if you did not occupy a private or shared room.

- Vacation pay of 4 per cent of your gross wages. This is to be paid out as two weeks vacation with pay after 12 months employment. The timing of the vacation is up to you and your employer but you must be given this time off not more than 10 months after completing the year to which it relates. When you leave your employment, your employer must pay you any vacation pay that you're entitled to but have not used.
- Written notice of termination or termination pay instead if your employer fails to give you notice. The amount of notice required depends on the length of your employment. If you have worked for more than 3 months but less than a year, you are entitled to one week notice. If you have worked for one year or more but less than 3 years, you are entitled to 2 weeks notice. More notice is required if you have worked for even longer periods.
- Public holidays on New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day. Generally, you are entitled to these days off with pay if you have been employed for at least 3 months and you work the scheduled regular work day before and

***Come to INTERCEDE's monthly meeting on Sunday, August 13, 1989 from 3 p.m. to 5 p.m. at the Cecil Community Centre, 58 Cecil Street.***

***Lynda Davies, Executive Director of Assaulted Women's Helpline, will speak on "What Constitutes Sexual Harassment in the Domestic Workers' Workplace".***

***There will be CLASP legal clinic but INTERCEDE counselling will not be available.***

after the holiday. You are entitled to be paid for the holiday, or to be given another day off with pay, even if you were not scheduled to work on that day. You can agree to work on the holiday but you are still entitled to be paid one day's wages as holiday pay and to be paid 1-1/2 times your regular wage rate for all hours worked on such holiday.

In addition, domestic workers are guaranteed two free periods per week, one of 36 consecutive hours and one of 12 consecutive hours.

If you agree to work during one of these free periods, you are entitled to compensatory time off at the rate of 1.5 hours for every hour worked, to be added to a subsequent free period within the next 4 weeks, or if no such compensatory time off is given, you are entitled to be paid at a rate of 1.5 times your regular wage rate for every hour worked.

You should also receive a statement of earnings from your employer which indicates hours worked, rate of pay and all deductions.

Deductions are made from your earnings for Income Tax, Canada Pension Plan and Unemployment Insurance. No other deductions (set offs) are allowed without your written authorization.

The fact that deductions are being made from your earnings for CPP and UI of course means that you are entitled to these benefits. Note that you are not prejudiced if your employer fails to make these deductions: you are entitled to these benefits and should apply for them. The government will chase after your employer for the unpaid premiums. You may have to pay the amounts that should have been deducted from your pay.

### WORKERS' COMPENSATION

A significant benefit that you are entitled to is Workers' Compensation Benefits (WCB). If you are hurt or injured as a result of an accident at work, you are entitled to WCB.

WCB is a form of insurance. Your employer is required to pay all of the premiums. No deduc-

tion for WCB is to be made from your earnings. Any deduction that is made by your employer from your earnings is improper and must be returned to you.

As with CPP and UI, you are covered whether or not your employer has been paying the premiums. It is the WCB's problem to collect unpaid premiums, it is not your problem.

It is very important that you report any accident that happens to you to your employer and that you seek medical attention. Be sure to tell your doctor that you were injured at work. Your employer and your doctor are supposed to report the accident to the Workers' Compensation Board. It is particularly important that your doctor file a report. If neither your employer nor your doctor report the accident to the Board, you should contact the Board directly and file a claim yourself.

### ENFORCE YOUR RIGHTS, MAKE A CLAIM

Note that domestic workers are protected under the Ontario Human Rights Code from discrimination because of race, country of origin, sex or disability, and from sexual harassment.

While you have a legal right not to be fired for attempting to enforce any of the rights described above, this right can sometimes be difficult to enforce. This is particularly true with respect to rights created by the Employment Standards Act. Note, however, that you can make a claim for unpaid wages under this Act up to 2 years after the wages are owed. If you have kept complete and accurate records of the hours and days that you worked and what you were paid, you will be able to make a claim after you leave your job.

If you need assistance in making a claim, contact your local community legal clinic.

by Ian Anderson

*(Ian Anderson is a lawyer in private practice in Toronto. He was formerly the staff lawyer for the Workers' Rights Group at Parkdale Community Legal Services. Mr. Anderson spoke about domestic workers' employment rights at the July 9th meeting of INTERCEDE.)*

**If you or someone you know have not received this newsletter because of a change of address, please tear the slip below and mail to:**

INTERCEDE  
489 College St., Suite 402  
Toronto, Ontario M6G 1A5

I have changed my address. Please send DOMESTICS' CROSS-CULTURAL NEWS to my new address:

NAME: .....  
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CITY/PROVINCE: ..... POSTAL CODE: .....  
TELEPHONE: .....

## COCO's CALENDAR

***The Toronto Organization for Domestic Workers' Rights (INTERCEDE) will hold its Annual General Meeting and Election of the Board of Directors on Sunday, September 10, 1989 at 3 p.m. at the Cecil Community Centre, 58 Cecil Street.***

***INTERCEDE Members who have attended at least three monthly educational meetings between October 1988 and July 1989 are qualified to vote.***

### I HAVE A QUESTION?

*Am I bound by a contract that requires me to work more than 44 hours a week without overtime pay?*

**Answer:** No. Even if your contract says you are to work more than 44 hours a week, what takes precedence is the Employment Standards Act according to which you have a right to overtime pay or paid time off beyond 44 hours a week.

*Am I entitled to termination pay after working 10 months with an employer?*

**Answer:** You are entitled to one week of termination pay if you were not given a notice one week before being terminated.

*How is INTERCEDE funded?*

***We wish to thank the Immigration Settlement and Adaptation Program (ISAP), Canada Employment and Immigration, for our core funding; and the Secretary of State for funding our educational and outreach programs.***

***We also wish to acknowledge the financial support of the Ontario Ministry of Citizenship, the Municipality of Metropolitan Toronto and the City of Toronto.***

Some problems they met...

Sally Bee-bee arrived from Sri Lanka in December 1986 as a domestic worker under the FDM. For over a year, she worked 126 hours per week with no days off. She was not paid regularly. When she was, payment was not made to her but was sent directly to her husband in Sri Lanka.

In March 1988, Sally was assaulted by her employer. She reported the assault to the police and subsequently left her employer. Sally sought INTERCEDE's help to file a claim for her back wages and overtime pay with the Employment Standards Branch of the Ministry of Labour. After a few months, her claim was approved.

On July 12, Sally finished her second assessment by Immigration. She is now awaiting approval of her landed papers.

In the Philippines, Norma Padasas thought that she would not be able to enter the FDM if she said she had been married and had a daughter. So she lied and said she was single. At her first assessment, Norma decided to reveal the misrepresentation she had made. As a result, she received a letter rejecting her continued stay in Canada and advising her to leave before August 1987.

Norma's employer and INTERCEDE intervened on her behalf with Immigration authorities. With legal aide, Norma went through Immigration hearings. In May 1989, Norma was accepted for landing and was given an open job permit.

Sally and Norma are so happy they have overcome their problems that they allowed me to tell their stories.

Reaching out...

Sister Chit Bautista has been the busy bee scheduling meetings with groups of domestic workers in different parts of Metro and assisting me in these information sessions.

Last June, we were at an ESL class at North York Secondary School. About 40 domestic workers asked questions about Immigration requirements and employment laws.

In July we met with staff and members of the Chinese Interpreter and Information Centre; then with domestic workers who gathered at Masaryk Hall to inform them about the topics discussed at previous INTERCEDE monthly meetings such as misrepresentation and assessments.

by Columbia Diaz

# ALBERTA DOMESTICS IN EQUAL RIGHTS CONFAB

The Household Workers Association of Alberta (HWAA) held a "Conference on Equality of Rights" in Edmonton on July 14-15, 1989.

"Domestic workers make a substantial contribution to Canada, through their labour, as taxpayers, as consumers and as volunteers," stated INTERCEDE president Cornelia Soberano, who was the Conference keynote speaker, "and they must have equality before Canada's laws." "They are entitled to services and facilities that their tax dollars pay for and they must have access to these services," she added.

Soberano gave participants an insight into the history of domestics' immigration into Canada and their struggle for equal rights that has led to the Foreign Domestics Movement (FDM) program which gives foreign domestic workers the right to apply for landed status from within the country.

Unfortunately, domestic workers are still easy victims of abuse in the workplace and elsewhere, according to Soberano who pointed to the three-year waiting time for landed status and the onerous self-sufficiency, upgrading and integration tests under the FDM as the root cause of the problem.

At present, there is no employment standards protection in Alberta's laws for domestic workers. Special guest, Pam Barrett, Member of the Legislative Assembly (MLA) of Alberta and Official Opposition House Leader, encouraged participants to organize since "governments do not pass or change laws unless people complain." Bettie Hewes, also an MLA, stressed the importance of linking with other groups that have similar goals.

Leonita Gutierrez, HWAA president spoke about how she endured three long years as a domestic in a household where she was not treated with human dignity. She thought she had to tolerate the situation lest she jeopardize her opportunity to get landed status. This sad experience gave Gutierrez the resolve to become involved and organize with domestic workers.

The Conference passed a resolution to organize and network with other groups to lobby the Alberta government to pass labour laws protecting domestic workers. Participants resolved to struggle to win for Alberta domestics the same basic protection that their counterparts in Ontario now enjoy.

## IMPORTANT PHONE NUMBERS

Canada Immigration Centre	973-4444	Unemployment Insurance	973-4727
Employment Standards Enforcement	965-5251	Ontario Human Rights Commission	965-6841
Revenue Canada (Taxation)	869-1500	OHIP	965-1000
Immigrant Women's Job Placement Centre	656-8933	Immigrant Women's Health Centre	367-1388
Educ & Skills Training Ctr, Labour Council	971-5893		
<b>Legal Services</b>			
Parkdale Community Legal Services	531-2411		
CLASP (Osgoode Law School) Legal Clinic	736-5029		
Kensington-Bellwoods Community Legal Serv.	363-0304		
Metro Tor. Chinese & SE Asian Legal Clinic	971-9674		
<b>Emergency Housing</b>			
Nellie's Hostel	461-1084		
Evangeline's	762-9636		

### LET'S PICNIC AT THE CENTRE ISLAND...

on Sunday, August 20, 1989

From 11 a.m. to 4 p.m.

Bring a picnic lunch and your ideas for  
a fun afternoon

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c/o INTERCEDE  
489 College St., Suite 402  
Toronto, Ontario  
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FIRST CLASS