

DOMESTICS' CROSS-CULTURAL NEWS

INTERCEDE for the Rights of Domestic Workers, Caregivers, and Newcomers

July 2003

Toll Free 1-877-483-4554



PRESENTATIONS ON PROVINCIAL EMPLOYMENT STANDARDS (Highlights of 7th INTERCEDE Domestic Workers's Conference (con't.))

Report on INTERCEDE's Documentation of Ontario ESA

Salma Saadi, one of INTERCEDE's counsellors, reported on some highlights of INTERCEDE's documentation project aimed at examining the impact on caregivers and domestic workers of the recent changes to Ontario's Employment Standards Act which took effect September 2001.

The study involved 64 individual interviews, a focus group polling and discussion, and about 22 client case files, involving caregivers and domestic workers; it culminated in an "action forum" held in April and attended by about 50 participants including other community and academic organizations. ESA information meetings were held at least six times in the course of this project, the last being an occasion to have a dialogue with a specialist of the Employment Practices Branch. An important output of the study is a series of articles about key ESA protections for domestic workers and caregivers which appeared in succeeding issues of INTERCEDE's monthly newsletter, *Domestics' Cross Cultural News*.

Among the findings discussed were those related to written contracts and common violations of the ESA victimizing caregivers and domestic workers. The study revealed that majority of workers do not have a signed contract and if they did have one, it did not guarantee against violations of the worker's rights. It was also confirmed that even while workers knew that violations of the ESA were being committed, they tolerated them or did not complain for fear of losing their employment and the effect this would have on their future application for permanent resident status. Often, caregivers felt pressured to sign a contract even if they had some reservations on certain provisions because they needed to get a job and could not risk being unemployed for any length of time.

(con't. p.2)

To vote in 2004 Philippine elections

KEY INFORMATION FOR OVERSEAS FILIPINO VOTERS

Who can vote in the Philippine presidential elections of 2004?

All citizens of the Philippines who reside or work overseas and are 18 years old on election day are eligible to vote. To be able to exercise the right to vote, one must register as an overseas absentee voter.

When to register as an overseas absentee voter?

Registration of overseas absentee voters will take place from August 1, 2003 to September 30, 2003.

Where to register?

Overseas absentee voter must register at the Philippine diplomatic post having jurisdiction over their place of residence i.e. the Philippine Consulate in Toronto.

Requirements to register?

Registration must be in person. One must show proof of Philippine citizenship i.e. valid Philippine passport or Department of Foreign Affairs certification that such a passport has been issued; submit a prescribed application form and a photocopy of one's passport. Application form may be downloaded from the Comelec and DFA websites.

Additional Requirement for Immigrants or Permanent Residents?

Execute an affidavit declaring one's intention to resume residence in the Philippines not later than three years after approval of

*All Domestic/Caregiver workers,
Newcomers and those on Temporary Work
Permit are welcome to attend*

INTERCEDE MEETING Every First Sunday of the Month

(if holiday, meeting is on the second Sunday)
Mark your Calendar: Picnic at Earl Bales Park
Sunday, August 3, 2003, 11:00 a.m.
Apply or renew your membership - \$10.

Sunday, July 6, 2002, 3-5 p.m.
At Cecil Community Centre, 58 Cecil St.
(one block south of College cor. Spadina)

NEWCOMERS:

START TO MANAGE YOUR MONEY TODAY!

*Guest Speaker, Mark F. Flor, FMA, BEng., MBA
Investment Advisor, BMO NESBITT BURNS INC.*

Documentation of Ontario ESA (con't)

Among the common violations of the Employment Standards Act cited in the study are:

- excessive hours of work
- less than minimum wage rates
- non-payment or underpayment of overtime
- non-issuance of statement of earnings
- improper deductions and non-remittance to Revenue Canada
- added tasks and responsibilities which were not part of the initial employment agreement
- degrading, offensive, onerous and unusual duties or treatment
- being made to pay for a non-private room
- denial of public holiday and public holiday pay
- termination without due notice
- being given a bad employer reference
- non-issuance of a Record of Employment.

An assumption which underlies the new Ontario ESA is that employer and employee have equal power and therefore should be able to negotiate and agree on hours of work, on method of calculating and paying overtime, vacation times, and other working conditions. Nothing could be farther from reality when it comes to employer-domestic worker relationship. Indeed, the power imbalance is more than evident, particularly in the context of the temporary immigration status of LCP workers. While the ESA contains provisions to protect workers against employer reprisals or pressures, it remains doubtful whether domestic workers would feel free to file claims against employers unless their immigration status in Canada is secure.

At the Toronto action forum, participants confirmed and added their own experiences of ESA violations by employers. Consequently they offered ideas and solutions to improve their work conditions. Suggestions varied from simple to more complex advocacy measures, and from individual steps to collective campaigns such as the following:

- some problems can be tackled by asserting oneself and having a calm talk with an employer
- education about the ESA, not only for the caregiver but also the employer, on each of their rights and responsibilities can lead to a more harmonious workplace
- caregivers' organizations and other groups should work together to improve the Employment Standards Act
- caregivers should be admitted to Canada as landed immigrants
- orientation should be given to prospective caregivers before they come to Canada
- create a temporary housing for live-in caregivers who are newcomers or who are terminated and need temporary shelter

There must be an effort to inform countries, such as those of the Caribbean, through their respective embassies or consulates in Canada, about the requirements of Immigration's LCP and the provincial ESA. This will minimize the effective discrimination that Caribbean women are experiencing because they cannot easily access the Live-in Caregiver Program, and, therefore, are not able to regularize their



KEY INFORMATION FOR OVERSEAS (con't)

voter registration and certifying that one has not applied for citizenship in another country. Failure to meet these requirements shall result in the removal of one's name from the National Registry of Absentee Voters and permanent disqualification to vote *in absentia*.

No payment involved in voting and registration?

All consular and diplomatic services performed in relation to overseas registration and voting will be free.

Approval of registration?

The Comelec will issue an overseas absentee voter I.D. card to any applicant whose registration has been approved. The name of registered voters will appear in a National Registry of Overseas Absentee Voters and a Certified List of Overseas Absentee Voters.

When to vote?

The presidential elections will be held on May 10, 2004. Land-based Overseas voters will have 30 days before and including that date during which to vote at the diplomatic post or polling place designated by the Comelec. This means that overseas voters in Canada can exercise their vote from April 11, 2004 until May 24 at 3 p.m. Philippine time.

Important information about the 2004 elections

Coverage: Overseas voters can vote for the President, Vice-President, Senators, and Party-list representatives.

Campaigning abroad: campaign spending limits and materials will be according to Philippine laws and regulations.

How to vote: Voting will be in person except in three countries where voting by mail will be allowed i.e. Canada, United Kingdom and Japan.

Counting: start of counting will be synchronized with the Philippines and will take place in the premises where votes were cast or such other counting centers designated by the comelec.

Remember: to be able to vote in the Philippine elections next year, you must register as an overseas absentee voter at the Philippine Consulate, 151 Bloor St. West, Ste. 365, from August 1, 2003 to September 30, 2003. For more information, please call the Philippine Consulate at 416-922-7181. Or call INTERCEDE at 416-483-4554.



INTERCEDE's Black Women's Support Group

The INTERCEDE Black Women's Support Group had its second meeting at the INTERCEDE office on June 13, 2003. The group had a discussion on their experiences as Black caregivers and domestic workers in Canada. They talked about the expectations they had and the cruel reality they faced once they started living in Canada. The stories that they shared discussed the exploitation encountered as domestic workers and caregivers, the pain they suffered by being separated from their children, and additional barriers due to racism, sexism and classism.

The women discussed how they are not fully protected as workers and it is difficult for them to complain because employers could easily threaten them.

The women also talked about dreams they have for the future, for themselves and their children. Many feel that since they have made it this far, their lives will hopefully be more

secure and happy in the future There were seven women who participated in the June group.

The women also chose a name for the group, they want to be called **The Caribbean Connection: INTERCEDE Black Women's Support Group.**

If you are a Black caregiver or domestic worker please come to our next meeting:

The Caribbean Connection

INTERCEDE Black Women's Support Group

July 12, 2003, 2:00 to 4:00 p.m.

234 Eglinton Ave. E., Suite 205

To register please call Salma Saadi at 416-483-4554 x 22

CASINO RAMA/BOAT CRUISE

30,000 Island Midland/Muskoka Georgian Bay Area

FOR ONLY \$25

Saturday, July 26, 2003

Assembly Time: 7:00 a.m.

Departure Time: 8:00 a.m.

Meeting Place: York Mills Subway Stn. (at Shell Gas Stn., Southeast of Yonge)

FREE Buffet Meal Voucher from Casino Rama

To register, please call Genie at 416-483-4554 ext. 21

Q and A with Coco and Anita

Q- I filed my application for Permanent Residence under the LCP in British Columbia last February and I am now living in Toronto. My Employment Authorization will expire in August, but I am still waiting for the approval of my Open Employment Authorization which I requested. Does my relocation to Toronto affect the approval of my Open Permit as well as my landed status?

A- No, you will get approval of your Open Employment Authorization as long as you meet all the requirements and Immigration approves your application in principle. Make sure to inform CIC Processing Centre in Alberta of your forwarding address so you can be contacted immediately if needed.

Q- My two minor children arrived in Canada with their father. We were in a common-law relationship and had lived together for 8 years. Now that he is here we want to continue living together as a family. He has children with another woman whom he supports financially. Can I sponsor him as my common-law partner within Canada? What are the steps and do I need to hire a lawyer?

A- Family reunification is your objective. However, before you sponsor your partner and the father of your children who is already in Canada, consider the following:

1. You can not sponsor if you have been apart for more than one year or if either of you is in another common-law relationship with another person.
2. If either of you have been legally married to someone else before, you must have lived apart from your legal spouse for at least one year.
3. You must prove that you have sufficient income to support

your common-law partner's dependent children as well as your own children. To do this you must provide documents showing your financial resources for the past 12 months i.e. T4 slips, notice of assessment and employment certification

4. Call INTERCEDE for assistance and if needed you will be referred to a legal aid lawyer.

Q- Can I be sued for non-compliance of an agreement I signed with a Fitness Centre? After using the facility two times, I informed the Fitness centre over the phone that I could no longer continue using their facility and canceled my membership because I had to travel. To my surprise after 4 months, I was sent an invoice and told that I have to pay the full amount of one year membership fee.

A- Being sued and brought to court, being hounded by collection agencies and having your credit record affected are some of the consequences you'll encounter if you do not take smart action on your case. Your signature on an "Agreement" that you did not fully understand can lead to complications. I suggest that you contact the Ministry of Consumer and Commercial Relations. Also, try to get in touch with a community legal aid service. INTERCEDE will be glad to meet with you as we have dealt with cases similar to yours before.

Q- My employer terminated my employment as their live-in caregiver when I told her that I am four months pregnant. It has been four months since my termination and I now plan to apply for Employment Insurance after failing to find a job. My employer is not forwarding my Record of Employment. I worked for this family for 2 1/2 years and never took a vacation. What are my entitlements?

A- Your employer violated the Employment Standards Act when you were terminated because of your pregnancy. You are entitled to termination pay, vacation pay, as well as a Record of Employment (ROE) which is long overdue. Come to INTERCEDE for assistance in contacting your employer about your ROE and other payments. If your employer will not comply, you can file a claim with the Ministry of Labour.

Q- I am a newcomer in Toronto and currently renting a room in my friend's two bedroom apartment. My friend is moving to another city and asked me if I wanted to continue paying the full amount of the rent. I agreed without hesitation and immediately informed the landlord but to my surprise, he asked me to pay a six-month deposit since I am new in Canada with no credit reference. Is this legal.

A- No, your landlord is taking advantage of your being a newcomer in Canada. His demand of a six-month advance is unreasonable. You can call Tenant's Hotline /Federation of Metro tenant's Association at 416 921-9494 for further information and assistance.

Q- Am I really liable for liquidated damages if I leave my employer?

When I was recruited by an employment agency in Hongkong, my prospective employer asked me to sign an employment contract and another agreement called "Liquidated damages". Under this agreement, it was stated that if I left before my

contract expired, I would be liable for expenses incurred by my employer in looking for another caregiver such as advertising expenses, placement fees to employment agencies, lawyer's fees and other incidental expenses.

After several months of working for this employer, I could no longer cope with her excessive demands and left. But she told me that I am liable for "liquidated damages" as agreed upon or else she will take me to court.

A - Parties to a written agreement are liable to comply with its provisions, however, any contract or agreement which violates an existing law (i.e. Ontario Employment Standards Act) is not binding. In some situations, you may still have to consult a lawyer about any legal obligations you may have.

In this case, there was no specific amount stipulated for liquidated damages therefore the written agreement with your employer is not enforceable.

You are not liable to pay "liquidated damages" when you leave an unsatisfactory employment. Next time, be careful not to sign any agreement, without understanding the provisions.

Call INTERCEDE and make an appointment with a counsellor if you need assistance.



FREE JOB SEARCH WORKSHOP

FOR NEWCOMERS AND CAREGIVERS

When: July 6, 13, 20 and 27, 2003
August 10, 17, 24 and 31, 2003
September 7, 14, 21 and 28, 2003

Time: 11:00 a.m. to 5:00 p.m.

Where: George Brown College
200 King St. East,
St. James Campus (Rm 325-A)

Please call (416)483-4554 ext. 21 or 30 to sign up or e-mail jsw@intercedetoronto.org

Seating is limited.

Funded by Citizenship and Immigration Canada & sponsored by COSTI & OCASI

Got Job in the Hidden Job Market

Eureka! I found it. I was lucky to find a full time job in the manufacturing department of Wrigley International Company. But mind you, I did not get it through the traditional way of looking for work. I first tried my luck with a temporary employment agency and used what I have learned from INTERCEDE's Job Search Workshop. I have learned to explore other possibilities while doing a job I do not really like - a survival job, that will sustain me until I get to where I want to be.

Today, I'm directly hired by a company and am no longer at the mercy of an employment agency. Thanks to JSW. I couldn't believe the wealth of knowledge I've gained during the four weeks of participating in that workshop: The strategies of developing a Canadian style resume, the courtesy of sending a thank you letter after an interview, and most importantly for me, the strategies for accessing the hidden job market, which helped me in getting the job I now have.

But I'm not stopping my job search yet. I'll still want to resume the same line of work that I enjoyed doing in the Philippines, by continuing to explore my chances in this company where I now work. (by Felicitas O. Flores)



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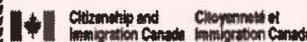
Address: 234 Eglinton Avenue East, Suite 205
Toronto Ontario
M4P 1K5

Summer Hours: Mon-Thur. 9 am - 5 p.m. (Friday - closed)
Telephone: (416) 483-4554
Fax: (416) 483-9781
Toll-Free: 1-877-483-4554
E-mail: info@intercedetoronto.org

INTERCEDE STAFF:

Fely Villasin - Coordinator
Des Balce - JSW Facilitator
Columbia Diaz - Settlement Counsellor
Salma Saadi - Settlement Counsellor
Anita Fortuno - Settlement Counsellor
Genie Policarpio - Intake & Administrative Assistant

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