

DOMESTICS' CROSS-CULTURAL NEWS

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

Toll Free 1-877-483-4554

September 2002



KEY PROTECTIONS UNDER EMPLOYMENT STANDARDS ACT

(Continued from August issue)

On September 4, 2001, a new Employment Standards Act (ESA) took effect in Ontario. It is important for workers to know what ESA provisions apply to them so that they will know what rights they have in the workplace, how to assert these rights and protect themselves against employer violations.

Following are ESA provisions covering domestic workers and caregivers who are employed in a household, whether they live-in or not, whether they are on temporary permit in the Live-in Caregiver Program (LCP) or have other immigration status.

Overtime

Once you have worked 44 hours in a week, your employer must pay you an overtime rate of one and one-half times your hourly rate for every extra hour that you are required to work, up to a maximum of 48 hours. This means that the maximum hours of overtime that you should work in a week is only four hours (48 - 44).

The overtime rate of pay is 1.5 x your hourly rate. If you are paid a minimum wage of \$6.85 an hour, your overtime pay will be \$10.28 an hour, or 1.5 x \$6.85. If you are paid more than minimum wage, your overtime rate will be 1.5 x your hourly rate. If you worked the maximum 48 hours in a week, your overtime pay will be \$10.28 x 4 hours = \$41.12 at minimum wage.

Remember that you cannot be made to work beyond the maximum 48 hours in a week, unless you have voluntarily agreed, in writing, to work up to a maximum 60 hours a week, and that such agreement has a termination date. If you have an agreement to work 60 hours a week, you should be paid overtime for at most 16 hours (60 hrs. - 44). At minimum wage this totals \$164.48 (\$10.28 x 16) of overtime pay.

You must be paid for all of the overtime hours you work. The employer is violating the ESA if he does not pay for all your overtime and can be penalized. Some employers refuse to pay all of a caregiver's overtime or they make informal agreements to pay a fixed amount such as \$50 per week, no matter of many hours of overtime has been worked. This results in many unpaid overtime hours. You don't have to be pressured into giving any free labour to your employer. Insist on your right to be paid for each overtime hour you work.

Your employer may ask you to agree to take time off instead of being paid your overtime. You cannot be forced to agree to such a mode of overtime payment. But if you do, the agreement must be in writing, you must get 1-1/2 hours for every hour of overtime you worked, and you must be able to take this time off within three months.

INTERCEDE advises that you not agree to be paid in lieu-time for your overtime work unless you have a good reason and that you report to the Ministry of Labour if you are being forced to sign any agreement by your employer.

Overtime Averaging

INTERCEDE advises caregivers not to sign any agreement to average overtime because this will result in gross exploitation and loss of income. Only if you voluntarily agree in writing, your Overtime can be averaged up to 4 weeks. This means that you earn overtime on the average overtime hours earned over the averaging period of 4 weeks, not the actual number of hours worked in each week. Your loss in income is best shown with the following example:

$40 + 60 + 40 + 40 = 180$ hours worked in 4 weeks

180 divided by 4 weeks = 45 average hours per week

(45 - 44 = 1 overtime hour) so

1 hour + 1 hour + 1 hour + 1 hour = 4 total overtime hours payable

*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)

Apply or renew you membership - \$10.

Sunday, September 8, 2002, 3-5 p.m.

INTERCEDE

ATTENTION ! Place of meeting: 234 Eglinton Ave. E., Ste. 205
(on Eglinton Ave. E., near Mt. Pleasant)

*Strategies of Taking Care of Yourselves While Taking Care of Others
by Lynn Gallagher, Co-ordinator of Caregivers Program
Family Services Association*

If calculated by the week:, it would be
 0 hour + 16 hours + 0 hour + 0 hour = 16 total
 overtime hours payable

In the above example, you would lose 12 hours of overtime pay if you had an agreement to average your overtime. As the maximum term of an overtime averaging agreement is two years and you and your employer must both agree before it can be revoked, INTERCEDE strongly advises caregivers not to sign any agreement to average overtime.

(Continued next issue)



OHIP CONTINUES FOR OPEN PERMIT HOLDERS

The Ministry of Health area office has moved to 47 Sheppard Avenue East, 4th floor. If you have an "Open Employment Authorization" and need to renew your OHIP coverage, follow the following procedure:

1. Before you renew your OHIP coverage, call CIC call center at (416) 973-4444, tell them you are an "open employment authorization" holder and request for a letter from Immigration stating that you passed the medical examination prior to your application for permanent residence. Without this letter, health officials will not accept your application to renew your OHIP coverage.
2. At the Ministry of Health, show this letter and the letter granting your Open Employment authorization from CIC Vegreville, Alberta, which states that your application for permanent residence has been approved in principle.
3. Make sure to bring your open employment permit which will confirm your valid status here in Canada.

Don't be discouraged if a health officer advises that you are no longer covered by OHIP because you are an open employment authorization holder because you are! Show the above letters from Immigration and they should process your application. If not and you need further assistance, call or visit INTERCEDE office and our counsellors will assist you.



\$2 RAFFLE FUNDRAISING DRAW

October 6, 2002, 4:00 p.m.
 Cecil Community Centre, 58 Cecil St.

PRIZES:

- 1st: one week in Cancun, Mexico
 2nd: one week in Orlando, Disneyland, Florida
 3rd: \$500 Cash
 Lottery License No.: M 149842

**Payment of Lottery Tickets by September 30, 2002.
 Only paid tickets will be drawn.**

24 MONTHS-NOT ONE DAY LESS

Lately, we have been receiving lots of calls and personal visits from live-in caregivers who are encountering problems with the processing of their application for Permanent Residence because they followed the advice of "friends".

According to their advice, caregivers submitted their application for permanent residence and Open Employment authorization as early as three months before completing 24 months of live-in caregiving work. The incorrect rationale given is that this process will save them \$150 in processing fee for extension of their present employment authorization.

The friendly advice has turned out to be costly indeed! After several months they were surprised to receive a letter from Immigration advising them to leave Canada or restore their status since their employment authorization had expired and they were now out of status.

To restore their valid status, they had to apply for reinstatement (\$200) and then to renew their employment authorization (\$150). Plus, they experienced up to six months delay in the processing for permanent residence.

There were situations when an employment authorization expired a few days before completing the 24-month requirement. Applicants thought a few days before 24 months would go unnoticed. Unfortunately, 24 months is 24 months, not a few days less!

We understand how you feel, you wanted to get your open employment authorization so you could work on any occupation other than live in caregiver and be reunited with your family the soonest possible time. However, submitting your application in advance will not help you. It causes more delays in processing your application and more trouble for you.

You have waited long enough; a little more patience and waiting to meet the 24-month requirement will save you money and time. If you have questions, call or visit INTERCEDE.



Inviting members and friends to our...

ANNUAL GENERAL MEETING

Sunday, October 06, 2002, 3 - 7 p.m.
 at Cecil Community Centre, 58 Cecil St.
 (one block south of College cor. Spadina)

3:00 p.m. Business Meeting

4:00 p.m. **Raffle Draw**

4:30 p.m. Program - Guest Speaker on
NEW IMMIGRATION LAW

5:30 p.m. Refreshment

COCO'S CORNER:

Q- *I came for the World Youth Day Celebration in July and my visitor's visa will expire on December 2002. One of my friends introduced me to her employer and I was offered to work as caregiver for her 87 year old mother. I am a nurse in the Philippines and had two years experience as caregiver in a nursing home in Taiwan. What steps do I need to do to work legally as caregiver here in Canada?*

A- The employer who is interested to hire you as caregiver must file an offer of Employment at a Human Resource Centre. While waiting for the offer to be validated, you need to secure proof of your education and employment history. Your application will be processed in a Canadian Visa office outside Canada. You must apply for a Canadian Visitor's Visa extension before your current visa expires. There is no guarantee that your application for extension will be approved.

Q- *My cousin who is a caregiver in Hong-Kong asked me to verify the existence of an employment agency which has agents recruiting applicants to come to Canada as caregivers. My cousin and her friends each paid the full amount of US\$3,000 and were promised that within a couple of months they would be in Canada. The name of the agency and the owner always appears in one of the community Filipino newspapers. Is it appropriate for me to call and make a follow-up on behalf of my cousin?*

A- Absolutely! Contact the agency immediately, as US\$3,000 is such a big amount to risk. By all means verify all the given information hoping that your cousin did not make a mistake in choosing her agency and that an employer will hire your cousin. Follow-up in a couple of weeks if an employer is already found. Also, get a job description and the location of the prospective employer. This way, the employment agency might render prompt and honest service.

Q- *I recently got married to a Canadian citizen and gave birth to our first child in July 2001. Since May 2002, I stopped working as a caregiver. My Employment Authorization under LCP will expire this October. Do I need to renew it or just wait for the approval of my in-land application for Permanent Residence through the sponsorship of my husband under the Family Class?*

A- You need to renew your employment authorization in order to have a valid Immigration status while your application for Permanent Residence is in process. Request from Immigration or download from internet an application form to "Change Conditions or To Extend My Stay in Canada".



JOIN A TRIP TO NEW YORK and ATLANTIC CITY

October 12, 13 & 14, 2002

COST: \$225 - 4 persons/room
240 - 3 persons/room
280 - 2 persons/room
((\$100. deposit, non-refundable)

Cost includes: 1. Round trip ticket (airconditioned coach)
2. two nights hotel accommodation
3. tax

Not included: 1. Tip to driver
2. Comprehensive Travel Insurance
3. meals

Pick up locations: 6:00 a.m. Sherbourne Subway
6:30 a.m. -Islington Subway (Aberfoyle St.)
Call Genie at 416-483-4554 x 21 for reservation.

Job search tips

WHO'S GOING TO BE CONTACTED AS YOUR JOB REFERENCE?

With the glut of people looking for work, not only are employers carefully checking references, they're also getting creative in finding references, says Robert Half, a personnel specialist. Who is a potential employer going to contact?

The Obvious: Those references you, the candidate, provide. You'll be asked for three or more. Those you put on the bottom of the list may be least important in your mind, but they may very well be the ones who will be the most candid.

Your Employer or Immediate Supervisor: And possibly the person above the supervisor. These are the people who will know your work the best.

Networking: Those contacted for references may be asked to give the name of another person to contact in the organization regarding your performance.

Personal References: Friends, relatives, teachers, landlord and clergy generally have limited value in reference checking, but may still be contacted, particularly if you don't have enough employer references.

Personnel Department: Personnel people generally don't have enough day-to-day contact with employees to rate their on-the-job performance and ability. But, they can confirm your position, dates of employment and salary history.

Remember these references when you are asked for one by a potential employer.



FREE JOB SEARCH WORKSHOP

FOR NEWCOMERS

When: Tuesdays and Thursdays
September = 10, 12, 17 & 19, 2002
October 8, 10, 15, & 17

Time : 5:00 p.m. to 9:00 p.m.

Where: INTERCEDE
234 Eglinton Ave. East, Suite 205
(Eglinton & Mt. Pleasant)
Toronto, On. , M4P 1K5

ESCAPE FROM SLAVERY - UPDATE

Remember Nora - the domestic worker from Hongkong who was very lucky to escape her cruel employers? We wrote an article about her ordeal in the August issue and this time, we have a positive update on her case.

We were informed by Vilma, the woman who helped Nora, that Police charged Nora's employers with **illegal detention and assault**. A case has been filed and awaits the first court hearing.

This is a good lesson for anyone, whether caregiver or not. Know your rights and be assertive. Don't be afraid to speak out, you are not alone. Call INTERCEDE for assistance.

FOR CAREGIVERS

WHEN: Sunday
September 15, 22, 29 & Oct. 6
October 13, 20, 27 & Nov. 3

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

WHERE: George Brown College
St. James Campus, 200 King St. East,
3rd Flr, Rm. 325-A

Call (416)483-4554 ext. 21 to sign up. Seating is limited.
Funded by Citizenship and Immigration Canada & sponsored by
COSTI & OCASI



EMERGENCY FIRST AID + HEARTSAVER - \$69.00
Saturday, September 21, 2002 - 9:00 - 6:00 p.m.

EMERGENCY FIRST AID+INFANT/CHILD CPR - \$65.00
Sunday, September 15, 2002 - 9:30 - 6:30 p.m.

Please register at least one month before the start of training date by mailing a cheque payable to:

INTERCEDE
234 Eglinton Ave. East, Ste. 205, Toronto, Ontario
M4P 1K5

Classes at **ST. JOHN AMBULANCE**, 46 Wellesley St. East

For registration call Genie at 416-483-4554 x 21

INTERCEDE

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

Regular Hours: Mon-Fri 9 am - 4 p.m.
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
Anita Fortuno - Settlement Counsellor
Genie Policarpio - Intake & Administrative Assistant

We wish to thank: Citizenship and Immigration Canada - ISAP Program and Job Search Program with COSTI-OCASI; Ontario Status of Women; the Municipality of Toronto CSGP, Access & Equity and "Breaking the Cycle of Violence" grant programs, for their financial support.

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