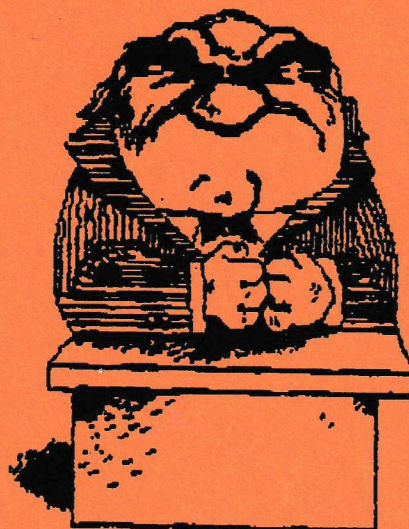


Bad Boss Stories:

Workers Whose Bosses Break the Law



**A project of the
Employment Standards Work Group
August 1996**

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INTRODUCTION

The *Employment Standards Act* sets minimum standards that employers in Ontario must follow regarding conditions of work, such as minimum wages, vacation pay, holiday pay, breaks, hours of work and overtime pay.

Bad Boss Stories: Workers Whose Bosses Break the Law is a collection of over 100 true workers' stories illustrating how some employers regularly violate the *Employment Standards Act*.

Most people assume, without thinking about it, that most Ontario employers are law abiding. They would be surprised to know that their favourite restaurant doesn't pay overtime to kitchen help, their gym doesn't pay minimum wage, their doctor treats her nanny as if she is a 19th century servant and the department store in the local mall is trying to keep long-term employees from termination and severance pay owed to them. Unfortunately, it's true.

The cases are too widespread to be discounted as a few employers who are "bad apples". While we hear from workers whose bosses break the law in every sector, there are patterns. Workers -- especially low-wage workers -- are cannon fodder in the battle of "competitiveness".

The stories also show that not all workers are affected equally. Women, and men and women who are immigrant workers and visible minority workers face the greatest exploitation. Bosses are more than willing to take advantage of workers who don't know their rights, workers who are scared of losing their jobs and workers who are new to Canada.

The Ontario government is introducing changes to the Employment Standards Act which will have grave implications for workers. *Bill 49 - the Employment Standards Improvement Act*, currently before the Ontario legislature, introduces significant changes, such as reduced investigation and complaint periods and caps on the amount a worker can claim. Following Bill 49, the government promises to undertake a full review of the minimum standards law and intends to introduce further changes early in 1997.

BAD BOSS STORIES

Five months ago, the Employment Standards Work Group (ESWG) started the "Bad Boss Hotline" as a pilot project to gather stories of real wages and working conditions in Metro Toronto. (Since then, the Ontario Federation of Labour, in cooperation with the ESWG has established an Ontario-wide "Bad Boss Hotline".) The 100-plus stories presented here are a sampling provided by staff who work in community agencies that try to help workers enforce their minimum rights. Some stories come from the Bad Boss hotline, some are cases at community legal clinics and some from the daily phone calls other agencies receive from workers. To ensure authenticity and accuracy, these stories recount claims of an employment standards case filed within the last two years.

Lynn Spink, Adjunct Professor, York University Centre for Research on Work and Society, coordinated the project of gathering these stories for the Employment Standards Work Group.

Appendix A reproduces the guidelines used to collect the stories. Appendix C lists the agencies who provided "Bad Boss Stories" with contact names and numbers.

THE EMPLOYMENT STANDARDS WORK GROUP

The Employment Standards Work Group (ESWG) is a network of thirty-plus community legal clinics, community centres and organizations who serve and work with unorganized workers. The activities of the group and its member organizations include: assistance and legal representation on employment standards, human rights and occupational health and safety cases; counselling on employment-related concerns and problems; advocacy and support for workers with complaints before quasi-judicial bodies such as the Labour Board, Human Rights Commission and Employment Practices Branch; and public education on workers' rights. In total, members of the ESWG serve more than 25,000 unorganized workers in the Metro area every year.

The ESWG has consulted with the previous two provincial governments about reforms to employment legislation which will increase the protection of the province's most vulnerable workers.

Appendix B lists members of the Employment Standards Work Group.

REAL EMPLOYMENT STANDARDS IMPROVEMENTS

The Employment Standards Work Group has proposed changes to the *Employment Standards Act* which, we believe, will provide additional protection to the workers whose stories are told below and to the thousands of others in Ontario who need stronger minimum employment standards and better enforcement of them. Our recommendations for change appear at the end of the stories in a section called **Real Employment Standards Improvements That We Need.**

THANK YOU

The Employment Standards Work Group would like to thank the many people who assisted with this story project. Particularly, we offer our thanks to Lynn Spink, Irit Kelman, the 1996 summer students in the employment rights division at Parkdale Community Legal Services and the Canadian Auto Workers.

Employment Standards Work Group
August 29, 1996

WHY NOT USE REAL NAMES?

We haven't used the real names of workers or their employers in the following stories. Only a couple of the workers who told us their stories were willing to "go public," and so this casebook uses pseudonyms for everyone except those whose names have already appeared in the Toronto media.

Ninety per cent of the complaints at the Employment Standards Branch are from workers who are longer work for the offending employer.

In most of the cases outlined here, the workers are no longer employed by the employer who has violated the Employment Standards Act. Why, then, you might wonder, would a worker be reluctant to identify the employer or to reveal his or her real name?

In 1994 the Toronto Star published a story, with photographs, about Tammy and Nancy, two young women who worked at Bramalea Town Centre and Mississauga Square One shopping malls in stores owned by a large clothing chain. Their employer was breaking the law, and the women and their co-workers organized a union to represent them. The union was quick to defend their rights.

In spite of the law, the chain was able to close the store where Nancy was working and Nancy was out of a job. The chain refused to schedule Tammy for work, and when a settlement at the Ontario Labour Relations Board guaranteed her return to work, the store did not comply. Instead, the chain sold the operation and the new owner refused to schedule her to work.

The photographs of Tammy and Nancy that had appeared in The Toronto Star were circulated at a meeting of managers of the chain, with the warning not to hire. The pictures were posted in other stores with the heading:

"Do not hire."

Workers who speak out are vulnerable. We've changed the names to protect them from retaliation.

Individuals working at the agency listed at the bottom of each story can verify that the story was told to them. Contact numbers and addresses for these agencies appear in Appendix C.

MANUFACTURING

ROSE - HOMEWORKER

"Rose" is afraid to tell us her real name because if the contractors she works for learn that she's told us her story, she'll be out of work. Rose has been a garment worker for eight years. She and her family came to Canada from Hong Kong in the 1980's. When she worked in a Montreal factory she earned \$9 an hour. Now she does piecework in her home in Scarborough. She has two children, age four and eight.

Rose sews women's fashions and works for different contractors and subcontractors. She's paid by the piece. The styles she sews vary and so do the fabrics. At first the work she was given was quite easy, but now she's given harder work. For complicated patterns and difficult fabrics she gets paid the equivalent of \$2 an hour. Sometimes her hourly rate works out to \$4 or \$5. She says she might negotiate with the contractor over a small amount, say 50 cents, but "if you don't accept the price you have no job."

Under the Employment Standards Act Rose should be getting the homeworkers' rate: the minimum wage (\$6.85/hour) plus 10 per cent. Rose says, "Ten per cent? That's the dream that's not real."

Rose is trapped into accepting below standard earnings until she finds work with another contractor, a contractor who may also pay workers below the minimum. Rose won't know until she gets paid.

Sometimes she has to wait three to six months before she's paid for her work. The subcontractor tells her "My boss owes me so you have to wait."

Rose says that if your rights are limited to collecting wages owed for just the past six months, then employers will gain and workers will lose a lot of money. With a chain of contractors and subcontractors, the boss sometimes doesn't pay workers until months and months after the work is completed.

Source: Homeworkers' Association

LINDA - HOMEWORKER

Linda has 25 years of experience as a sewing machine operator. She used to work in a factory. Now she sews at her home in Mississauga. She makes dresses, blouses, and sportswear. She earns the equivalent of \$7 an hour.

She says that restricting claims to six months of earnings is "only good for the boss. If you lose your job you don't have time to complain, you have to look for a new job."

She says the boss can try out ten workers, and then fire them without paying them. The boss can always find new workers. It's easy for the boss but it's hard for the workers to complain. They have to look for a new job right away.

Source: Homeworkers' Association

200 WORKERS - FACTORY "X"

A sportswear factory in Metro closed in July 1995. The 200 workers - cutters, pressers, sewing machine operators - got no notice, no vacation pay, no termination pay. The factory owes these workers \$2000 each, on average.

The workers are of Chinese, South-east Asian and Portuguese origin. When the factory closed, their immediate concern was to find another job. They had rent to pay and food to buy to feed their families. It took the workers months to find out exactly what their rights were and to get help. They filed a complaint with the Ministry of Labour in May, 1996. Under Bill 49 these workers would lose their right to complain six months after the factory closed.

Source: UNITE

MS. I AND Ms. O - HOMEWORKERS

Ms. I and Ms. O worked for a Spadina area garment manufacturer for the month of July 1993. Ms. I worked at home while Ms. O was employed in the factory. Both were being paid a piece-rate.

Ms. I had to wait until September to get her wages, and one of the cheques bounced. The employer owed her \$580 in unpaid wages and vacation pay. The employer owed Ms. O \$2400 in unpaid wages and vacation pay when the factory closed.

In November 1993 a demand letter was sent to the employer and a claim was filed with the Ministry of Labour. They were told that an employment standards officer would contact them in May 1994. However, it was not until September 1994 that the Ministry assigned an officer to the case.

The officer determined that the employer did owe these two workers the amounts claimed. As the employer was no longer in business they were paid out of the Employee Wage Protection Program Fund.

Source: Parkdale Community Legal Services

MRS. KWAN - INDUSTRIAL HOME SEWER

Mrs. Kwan and her husband and three children live in Mississauga. She works at home, sewing clothes.

Mrs. Kwan has worked for the same garment manufacturer for 20 years. For the last two years Mrs. Kwan has had trouble getting full pay for her work. The boss pays her at irregular intervals, her cheques are always late, and for less than she's earned.

For example, one month she earns \$1000, a month later she gets her cheque but it's only for \$700. The next month she earns \$1200, a month later the boss pays her \$1000. She's \$500 short for two months work. At the end of the year, the boss owes her \$2000. The boss deducts taxes based on the total amount that she's earned, not on the amount he's paid Mrs. Kwan. He doesn't pay her the four per cent vacation pay he owes her.

Mrs. Kwan feels trapped. The boss keeps her on the hook. He promises her it's coming the next week, and the next. If she's going to get the back pay she's owed, she has to keep on working, and keep on accepting less than she's earned.

This practice by employers is common.

Source: Homeworkers' Association

MRS. X - GARMENT HOMEWORKER

Mrs. X and her neighbours, immigrants from Hong Kong, worked for the same garment contractor, sewing clothes at home in a Toronto suburb. The employer told the women they were "self-employed" and not covered by the provisions of the Employment Standards Act. He paid them less than the minimum wage, and didn't give them vacation pay. They were dependent upon him for work, and were not "independent contractors" as he insisted.

After the employer shut down his business, Mrs. X got help from the Homeworkers' Association and from Parkdale Community Legal Services, who filed a complaint with the Ministry of Labour on her behalf for \$3000 owing in back pay and vacation pay. The employer also owes Mrs. X's neighbours \$2000, \$5000, and \$6000. The three neighbours, however, have not filed complaints because they say they "want to give the employer a chance."

Officials in the Ministry of Labour are trying to find the employer. It's easy for contractors who owe employees a lot of money to close down that business, and then open another under a different name.

Source: Homeworkers' Association

MAY - GARMENT HOMEWORKER

May is a recent immigrant from China. She sews vests at home for a contractor in the garment industry. The contractor pays her \$1.50 for each vest. Depending on the style, she averages two or three vests an hour. If she makes three vests, her hourly wage works out to \$4.50, \$3.04 below the minimum wage for homeworkers. The vests sell in trendy stores for \$29.95 each.

May has a friend who has been in Canada many years and who sews vests for the same contractor. The friend sews at the same speed as May. The contractor pays May's friend twice as much as he pays May - \$3.00 for each vest.

Some contractors take advantage of newcomers like May who don't know the law.

Source: Homeworkers' Association

MRS. Y AND MRS. FUNG - SEWING ZIPPERS

Mrs. Y, who sews at home, spent 40 hours sewing waistbands and zippers in skirts. The employer told her he'd pay her five dollars an hour for her work, \$2.54 less than the minimum wage. She expected to earn \$200.

When Mrs. Y gave the employer her finished work, the employer said she had made a mistake in the way she'd inserted the zippers. She offered to redo the zippers. The boss said, don't bother, I'll just deduct something from the money I owe you. When Mrs. Y got her cheque, it was for \$40, the equivalent of one dollar an hour.

Parkdale Community Legal Services sent a letter to the employer and filed a complaint on her behalf with the Ministry of Labour.

The case was resolved by the employer paying the woman \$160 in back wages and vacation pay.

Mrs. Fung also worked at home sewing waistbands and zippers into silk shirts. Before she got the work she had to demonstrate her skills at the garment factory. The employer paid her \$1.10 for each skirt. She sewed two skirts an hour, earning \$2.20 -- \$5.34 less than the minimum wage.

From November 13 - 15, 1995 she sewed a total of 53 pieces. She expected to be paid \$58.30. When the boss came to collect the skirts, he said she'd made a mistake in the way she inserted the zippers. He said Mrs. Fung could redo the zippers, or accept a small reduction in pay.

She agreed to a reduction, but it wasn't until she got a cheque for \$28.30 that she found out that the deduction was more than fifty per cent.

Mrs. Fung called the boss to ask why he'd taken so much off. The boss said he did that to everyone who made a mistake. He said some homeworkers even get all their pay deducted!

Source: Homeworkers' Association

"MR. GENERAL HELPER"

A newcomer from China is working as a "general helper" in a Toronto area garment factory. The employer requires him to work from 8 a.m. until 7 p.m. or 8 p.m. Often he has to work on Saturdays and Sundays too.

The employer gives him \$40 a day, cash. The general helper doesn't receive any benefits, gets no statement of earnings, and the employer doesn't deduct any income tax. If this man complains, he'll lose his job.

The factory owner employs 20 sewing machine operators in his factory, and also employs 10 homeworkers. He sets a piece rate that means the workers receive less than the minimum wage.

If any of these workers complained, they'd lose their job.

If the government doesn't look for minimum standards-cheats and enforce the law this employer will always be able to get away with exploiting workers and cheating the government of tax revenue.

Source: Homeworkers' Association

MS. S - GARMENT WORKER

Ms. S is from Iran. She worked for a Toronto area garment manufacturer in May, 1993. It was not until July that the company finally gave her a cheque for her work. When she got the cheque, she was told not to cash it, because the company had financial difficulties.

In early August, Ms. S asked if she could cash the cheque then. She was told to wait for a new cheque. The company took until September to replace the cheque, and did so with two cheques dates September 10 and September 15. The cheque dated September 15 was returned to Ms. S marked "not sufficient funds."

Ms. S went to see the boss and showed him the "NSF" cheque. The boss yelled at her and told her to shut up or he'd call the police. He tore up the "NSF" September 15 cheque, and replaced it with a cheque dated October 10. This cheque was also an "NSF" cheque! She's owed close to \$1000.

Ms. S contacted the Homeworkers' Association. Parkdale Community Legal Services wrote a letter to the employer, and filed a claim with the Ministry of Labour. The employer has gone bankrupt, and Ms. S was paid from the Employee Wage Protection Fund.

Source: Homeworkers' Association

MS. K - FUR CUTTER

Ms. K and several other women worked in their homes for a large, well-known Toronto furrier. The furrier employed between 150 and 200 homeworkers and factory workers.

Ms. K's job was to cut furs in various shapes for assembly onto garments, like sweaters. She was entirely reliant upon the employer for work, and the employer provided the tools, as well as the furs, she needed to do the job. Her work for the company was steady with the busiest season in the spring.

She and several other fur-cutters were terminated without severance pay or vacation pay. Some of the workers had worked for the employer for 20 years; most had worked between five and ten years for the same employer.

Ms. K and the others contacted the employer and asked for their severance and vacation pay. The employer offered a fraction of what he owed some workers and refused to recognize the claim of others. The employer insists that Ms. K and the others aren't employees, and that they are "independent contractors" because they worked at home. However, under the ESA homeworkers are employees.

The workers have complained to the Ministry of Labour and are waiting for a fact-finding meeting. After many long years of service to the company, the workers are left with few job options and no severance pay.

Source: Parkdale Community Legal Services

MRS. POON

Mrs. Poon is a recent immigrant from Hong Kong where she worked as a registered nurse. She's married with one school-age child.

In July 1996 Mrs. Poon applied for a job as a sewing machine operator at a Scarborough factory located near Steeles Avenue.

The boss told her she could have the job if she would work seven days a week, and if *she* would pay *him* \$20 to cover the cost of training her.

Mrs. Poon decided to look for work elsewhere.

Source: Homeworkers' Association

ELISA - KNITTER

Elisa, an older woman living with her son, wanted to contribute to the household and did not want to go on welfare. She found a job which she could do at home and used her extensive sewing skills.

She knitted hats for babies during the fall and winter for two years. Each hat took between 4-5 hours to knit but she was paid the ridiculously low amount of \$2 for each one. This works out to only about \$.40-.50 per hour.

Whenever Elisa asked her employer to whom he was selling her hats he refused to provide her with any information.

Elisa was afraid to complain because she needed any money she could earn.

Source: UNITE

T. J. - ASSEMBLY LINE OPERATOR

T. J. is a 24 year old student at Humber College. He needs money for tuition, supplies, and rent. He works part-time for Dominion, but wasn't getting enough hours, so got a job at a bindery. He was employed as a "jogger," working on an assembly line processing newsprint magazines.

When he was hired he was told his shift would be 12 hours long, from 8 p.m. to 8 a.m. There were no options. He and 15 others -- all male, mostly South Asian and Chinese, all under 25 years old -- work this shift. After the first four hours the workers get a 30 minute unpaid break. After the next four hours, the workers get a 15 minute unpaid break. By law, they should get 2 half hour breaks in a twelve hour shift.

The working conditions are very bad. In May the temperature near the printing machines was 28 to 30 degrees. Some of the safety guards on the printing machines are held on only by duct tape. There's a lot of racial tension in the workplace, and the supervisor refers to one worker as "Chinky man."

T.J. will quit this job when school starts in the fall, but many of the people who work there won't be able to. They have to support families, and have fewer job possibilities. They'll put up with the racism, the dangerous working conditions and the violations of employment standards law until they know they have a better job to go to.

Source: UNITE

MR. MORENO - CAD DESIGNER

Mr. Moreno was hired by an international company, a supplier of brake pedals for the automotive industry, to work as a CAD (computer assisted design) designer.

Mr. Moreno worked for eight hours a day Monday to Friday. He was required to attend training sessions on weekends during his first month. He was not paid for those 32 hours of training. Mr. Moreno worked for three months and was very pleased with the work. His employer, however, had another viewpoint. The employer called Mr. M. into the office, told him he was fired and he had to sign a letter saying he had quit. The company owed him \$800 in unpaid wages. Mr. Moreno was fired just before the three month period and the day he would be owed termination pay.

Mr. Moreno lives alone. Mr. Moreno is currently being denied U.I. and he is fighting his case. After demand letters to the company, Mr. Moreno settled for \$600, but the company refused to admit any liability. The company legally does not have to provide any reasons for firing a worker.

This is another story of a bad boss and bad law.

Source: Parkdale Community Legal Services

CONSTRUCTION

FOUR HOUSE PAINTERS

A Metro Toronto home-owner wanted his house painted. The employer told the home-owner it would take him 40 hours to paint the house, and the 2 parties agreed upon a price. Instead of painting the house himself, the employer hired four other men to paint the house. All were experienced painters; one had 25 years experience painting houses. They worked for 40 hours each. The home-owner paid the employer the agreed-upon price. The employer divided up the money, so that each painter who worked 40 hours ended up with only 10 hours pay!

Source: Workers' Information and Action Centre

STEPHAN - LABOURER

Stephan was employed as a construction labourer from March 13, 1995 to October 3, 1995, when he finally quit because he wasn't being paid. When he was hired he was told he would be paid \$12 per hour.

He was paid properly until July 24, 1995 after which the employer stopped paying him entirely. The employer insisted that he did not have any money but would pay Stephan as soon as he could. After pressuring the employer, Stephan received two payments totalling \$1200 in late September.

The employer still owes Stephan \$3361 in unpaid wages, overtime and vacation pay.

The employer has a long history of employment standards claims against him and the Ministry of Labour has been trying to track him down for approximately four years. According to the Ministry, the employer routinely exploits recent Polish immigrants by hiring them to do construction for a few months or weeks and refusing to pay them. The reason which he gives to workers is that the projects have liens on them which prevent him from getting paid.

The employer is well aware of the time-lag involved in the employment standards process and closes down his operations and moves on as soon as he hears that any workers have gone to the Ministry. By the time the matter is investigated, there is no trace of him. The employer is highly mobile and to date has run three different operations (that the Ministry is aware of) out of two different cities in Ontario.

Source: Parkdale Community Legal Services

JUAN - GENERAL LABOURER

Juan worked as a general labourer for a pre-cast concrete company north of Metropolitan Toronto. He was employed as a mixer, using a machine calibrated to mix specific amounts of sand, cement and water.

Juan is the sole support for his wife and three young children. He worked for the company for a year and a half. Twenty-five other men, immigrants from Portugal, Italy, and Asia work for this company.

The employer often forced Juan and other key workers work overtime. However, these hours were never paid at the overtime rate. For instance, in a week when Juan worked five overtime hours, he was paid for three and one-half hours at the regular rate in addition to his regular pay.

Juan asked the employer for overtime pay several times. The employer said he couldn't pay that rate. Juan did not file a complaint until he left the company because he was pretty sure the employer would fire him if he did. When Juan left the company he complained to the Ministry of Labour.

His claim was settled in June, 1995 for 40 per cent of the total amount the company owed him.

The men who are still working for the company still don't get overtime pay.

Source: Northwood Neighbourhood Services

FIVE SPANISH SPEAKING CARPENTERS

A group of five workers working in a carpentry shop approached their employer to discuss working conditions, pay for statutory holidays, overtime, etc. The employer responded by firing them all.

A complaint was filed with the Ministry. Although the Ministry was well aware that the workers were represented by a community organization, the investigator went in to speak to the witnesses (other workers in the shop) using the employer as his interpreter! The workers were Spanish-speaking and the employer was Italian.

One of the workers was reinstated by the employer and the employment standards officer discouraged him from pursuing his claim 'as there would be reprisals if he did'. After some vigorous complaints, orders were written and paid for a total amount of \$6,000.

Source: Centre for Spanish Speaking Peoples

**UTILITIES,
TRANSPORTATION AND
COMMUNICATION**

MR. R - AIR CONDITIONER INSTALLER

Mr. R worked 80 hours for an air conditioning and heating company. His job was to install air conditioners and do carpentry and general trades work.

The employer paid Mr. R \$350.00, well below the minimum wage, and then fired him. The company did not provide Mr. R with a "Record of Employment" as required by law. The company owed Mr. R. \$1204.80 in back wages and vacation pay.

Mr. R tried to get the money from his employer. The employer paid him an additional \$367.00, but still less than the amount owed. Parkdale filed a claim with the Ministry of Labour on behalf of Mr. R. The Ministry found that Mr. R was only entitled to vacation pay and not to unpaid wages because Mr. R had no proof of hours worked. That's because the employer didn't supply the required records!

After appealing the Ministry's decision, the adjudicator at the hearing decided Mr. R was entitled to more money, although still not the full amount claimed by Mr. R. Mr. R received \$878.80 from the Employee Wage Protection Program Fund.

Source: Parkdale Community Legal Services

MR. F - BUS DRIVER

Mr. F worked for a large Ontario regional bus company as a bus driver.

He drove a bus for this employer for more than eight years. He worked very long hours, often 58 hours a week, with no overtime pay, as required by law, after 44 hours. Mr. F says that the boss was like a dictator, so Mr. F was afraid to try to pressure him for back pay.

The boss fired Mr. F because he refused to work on his vacation day.

Mr F phoned the Bad Boss Hotline. Parkdale Community Legal Services have filed a complaint with the Employment Standards Branch of the Ministry of Labour and they're waiting for the Ministry to set up a fact-finding meeting.

Under Bill 49 Mr. F would only be able to claim the overtime the company owes him for the six previous months. Under the law now, Mr F can claim two years worth of overtime owed to him.

Source: Parkdale Community Legal Services

MR. L - PAINTER OF CARS AND TRUCKS

Mr. L has been looking for full-time work for some time. The only jobs he has been able to find are short-term temporary jobs at minimum wage or less. He has been forced to move often and on occasion take refuge in shelters. He often cannot afford the bus fare to look for work.

Finally, Mr. L was hired by an automobile repair and paint shop in Mississauga. He worked for a week, painting cars and trucks. After a week's work, including overtime, his first pay cheque bounced. Two other employees were in the same situation.

The automobile repair shop shut down and Mr. L and the others couldn't find the employer.

Mr. L asked Parkdale Community Legal Services for help. They filed a claim on behalf of Mr. L. The Ministry issued an order to pay. Parkdale is helping Mr. L apply to the Wage Protection Fund for the overtime, vacation pay, and wages owed to him.

Mr. L is destitute and living in a shelter. He hopes that the payment of outstanding wages will help him get back on his feet.

Source: Parkdale Community Legal Services

RICHARD - CABLE INSTALLATION

Richard called to find out about his rights.

Richard worked this summer installing cable. He was told that he would be trying out for 3 months - "apprenticing" - so would only be paid \$10.00 per hour. (Even that wasn't bad -- so he took the job ...) He and all his fellow workers -- people also drawn by the idea that they could "train" in an expanding field in a growth industry -- worked 12 hours per day when they worked. They didn't get lunch breaks, coffee breaks, or overtime pay. If they needed to relieve themselves, they peed into a bottle in the van. If the weather was bad, they didn't work and weren't paid. They just tried to make up for it the next day.

As it turns out, the company lays off most guys just before they have worked for 3 months. And so was Richard. That way, their pay never goes up and they aren't owed any termination notice or pay in lieu of notice.

Just another story about people who need work and work hard who are taken advantage of by unscrupulous employers.

Source: Workers' Information and Action Centre of Toronto

RETAIL AND TRADE

"SPORTS AND ENTERTAINMENT" SALES SCAM

**ENTRY LEVEL
OPPORTUNITY**

A young, dynamic advertising co. in the sports & entertainment field seeks people for public relations, customer service, sales & marketing. Full training. Call Monica at 416-482-5022.

This ad appeared in The Toronto Star for several days at the beginning of July 1996. Several young people applied and looked forward to this exciting job opportunity. When they reported for work, they were driven in a van to Oakville and asked to sign a waiver that they'd work free for the first day because it was a training day.

The company sent them door-to-door selling home heating oil, not exactly sports and entertainment! There was no training. They worked from 11:00 in the morning until they were driven back at 9:00 in the evening.

The mother of one of the young women was upset that her daughter was so late returning home, and outraged when she heard about the "job." She phoned the Bad Boss Hotline and learned that the waivers weren't valid; workers can't sign away their rights under the law.

The parents contacted the employer, and eventually, the employer paid the workers \$50 to \$75 for the day.

Source: Workers' Information and Action Centre

MRS. L - BAKERY WORKER

Mrs. L is a new immigrant to Canada. She knew it was very hard to get a job in today's economy so she was extremely pleased when she was hired for "general bakery duties" by a well-known franchise bakery. She was hired to work 35 hours per week at minimum wage - \$6.85 per hour, with a gross weekly wage of \$239.75. After working two weeks she was told she had to work as many hours as it takes to finish the work she's told to do each day, maybe 42 hours, maybe 45 hours in a week -- the hours don't matter. What matters is that she can't go home until that day's work is done. Her gross weekly wages are still \$239.75.

She receives a cheque stub which has only two pieces of information - gross pay and net pay. No record of hours. She's been working at the bakery for about three months and is desperate for a job. She won't file a complaint unless she can find another job.

If she's working at least 40 hours a week, then the employer owes her at least \$34.25 per week in unpaid wages because he's paying her for only 35 hours. Over six months the bakery will owe her \$576.00 in back wages, the equivalent of approximately two weeks pay.

Mrs. L. is afraid. She's supporting a family. She was invited to attend a session on workers' rights as part of a training program for immigrant women. She didn't attend because she believes that if she participates her employer will find out and fire her.

Source: Workers' Information and Action Centre of Toronto

MS. E - CLERICAL WORKER

Ms. E first got caught by the SuperFitness Scam (described elsewhere). She is owed over \$1,000.00 from that "job". Given that she wasn't paid by that employer, she needed to find another job quickly.

She applied for a job advertised in the newspaper. She talked to the employer and felt the business was reliable. She worked for a store that markets vacuum cleaners in Scarborough. She was employed for a month as a receptionist and office clerk. She booked appointments for salespeople and trained a few new employees. Ten others worked for the store.

After almost four months with the company, she had two pay cheques bounce. She also realized that she was not being paid for all of the hours she worked, and hadn't received any vacation pay at all. When she called her employer to raise these issues, she was told she was "laid-off".

Her claim for \$200.00 was filed just two days before the proposed six-month deadline for filing. Ms. E and staff at Parkdale have been unable to find the employer.

A minimum cap on employment standards claims, such as that proposed in Bill 49, may wipe out her small claim. How many "bad bosses" does she have to work for before the law becomes effective?

Source: Parkdale Community Legal Services

YOUNG MAN - SUPERMARKET JOB

A young man was a new immigrant to Canada. He was hired to work at a supermarket in the Finch/York Mills area. When he was hired, the employer told him that since this was a training period, he didn't need his social insurance number.

He worked for one month. Three days a week he worked 12 hours a day, and three days a week he worked 10 hours a day, for a total of 66 hours a week. During this time he was paid \$200 cash each week. After one month he called in sick for one day, because the long hours had exhausted him. When he went in to work the next day, he was told not to come back again. "You're not needed any more."

He has no record of pay or hours from his employer. Because the employer did not take his social insurance number, we know that no statutory deductions were taken from his pay and remitted to Revenue Canada.

Weekly pay owing at minimum wage:

44 hours @ \$6.85 = \$301.40

12 hours (overtime) @ (\$6.85 x 1.5) = \$123.24

Total owed for 66 hours = \$424.64

(Minus \$200 received) = \$224.64 Owed for each week

Wages owed for the four weeks worked: (\$224.64 x 4) = \$898.56

Vacation pay owing: (4% of \$1698.56) = \$ 67.94

TOTAL OWING = \$966.50

For the month that he worked, this young man is owed more in unpaid wages and unpaid vacation time than he was paid!

Source: Workers' Information and Action Centre

NINE WORKERS - CAKE BAKERS

Nine workers were employed to bake cakes, do manual labour, public relations, and also serve customers. Some of them worked for the bakery for three years, some for as many as nine years.

When the employer went bankrupt, he owed the employees termination pay, vacation pay, wages and overtime pay. The average owing to these employees was \$1500 each.

The employees asked Parkdale Community Legal Services staff to represent them. Staff filed a complaint and all nine were paid from the Employee Protection Fund.

If Bill 49 were implemented, the six month limitation on back claims would mean that overtime and vacation pay settlements would have been reduced.

Source: Parkdale Community Legal Services

SHAUNA, KATHLEEN, BRENT & ROBERTO - GAS REBATES

Shauna & her partner were just breaking up. Shauna was on social assistance, but when the cuts were announced last fall she went looking for a part-time job so that she could keep the house and support their two kids. Kathleen is also a single mother. She had a job, but it only paid \$10.00 an hour. Brent was a young artist trying to keep food in his belly and a roof over his head. Roberto is his roommate.

They all answered an ad that ran in the classified section of the Toronto Star for several weeks. The ad promised that they could earn \$18.00 an hour working for a reputable gas company, work flexible hours, no experience required. Shauna was particularly drawn to being able to work in her own neighbourhood during school hours. Kathleen was looking forward to earning more money. Brent and Roberto wanted very flexible jobs.

Each one called, was briefly interviewed over the phone and then asked to come to an orientation on a Tuesday morning with 2 photographs for photo ID cards. The sign by the office door was for "H" Co. The photo ID they were provided with said "X" Gas on one side and "Z" Gas on the other. About 25 people attended the orientation session.

Applicants were asked to sign an "Independent Agent Agreement" which said that they were not required to work during any specific or fixed hours and set out a more complicated pay arrangement that would add up to \$18.00 per hour if you convinced 2 customers to complete the application for a gas rebate from "X" or "Z" gas company. That is, the pay was actually \$9.00 per "sale". Everyone decided to try the work.

Some were told to meet the next day at a parking lot at Yonge and Sheppard at 11:30 a.m. the next day. Others met at a downtown office building. There they waited 1 to 3 hours for the van that loaded them up and drove them 2 to 3 hours out of Toronto to some other small town. Each person was charged \$9.00 for transportation for the day. They weren't allowed to use their own cars. They weren't allowed to choose their own sales sites. When they arrived at their destination, the "manager" in the van bought a local map, marked out residential blocks for each person, dropped them off and arranged to pick them up about

7:30 or 8:00 p.m. Back in the van that evening, the sales agents handed in their copies of rebate agreements signed by customers during the day. They were driven back to Toronto and dropped off at the pick-up point about 10:00 p.m. They had been at work for 11 hours. And they hadn't had any choice about where or how long they worked.

Pay day was supposed to be Monday. Everyone's story was the same. Monday they were told to come back Thursday. Those who went quietly the first Monday, were told on Thursday to come back the following Monday. Those who raised more of a "stink" on the first Monday, received a cheque on Thursday, but for half the amount they were expecting. "H Co." seemed only to have recognized about half the sales they had made. They deducted some for transportation, said others hadn't been made or customers had changed their minds, or something.

One of the fellows who actually stayed with "H Co." for several months (and his pay was never up to date) reported that it was always the same. 25 people came to an orientation session every Tuesday. On Wednesday here would be 35 people working for the company. Within 2 days to 2 weeks, the new recruits would all be gone again because they weren't being paid for the work they had done.

Several people filed employment standards claims against "H Co." in November 1995. The Ministry of Labour accepted the employers' contention that these were independent contractors who were not covered by the ESA. The ex-employees are appealing that decision.

"H Co." is no longer selling gas rebates. Last we heard, they were selling long distance services. Their ad may be in the Star, although the phone number may be different as they move every few months.

There are more and more stories of people being taken in by various employment scams. Telemarketing. Door to door marketing. Training times. Stuffing envelopes or making jewellery in your own home.

There is no law that shuts down a company that has been proven to be running an employment scam. All the employer has to do is settle the few ESA claims that are made, and he or she can go right on and do the same thing to the next 25 desperate people.

Source: Workers' Information and Action Centre of Toronto

MRS. C - MOBILE PHONES

Mrs. C recently came to Canada and her first job was as a marketing agent for a Scarborough company. She sold applications for a major mobile phone company in shopping malls. Ms. C worked in a number of Metro shopping malls from March to August 1995. Her days were long, starting at noon and ending well after 9:00 p.m., as she stood on her feet all day pitching the phone company's new phone.

Mrs. C had two pay cheques in a row "bounce" and she quit her job.

She went ahead and filed her own claim at the Ministry of Labour and attended a fact-finding meeting there in January 1996. The employer did not show up.

The Ministry of Labour has not issued a decision yet. Meanwhile, Mrs. C. has had to wait over one year for the money she is owed.

Source: Parkdale Community Legal Services, 531-2411

MRS. S - CASHIER

For 13 years, Mrs. S worked at the check-out counter as a cashier for a grocery store. The store employs approximately 75 workers. Mrs. S. was fired suddenly and for no apparent reason. The employer did not give her any notice of the firing nor did he give her pay in lieu of termination notice. She was entitled to eight weeks of termination pay and also to severance pay - a total of \$4676.03.

Parkdale Community Legal Services represented Mrs. S and wrote a letter to her employer asking for the money owed to her. The employer did not respond.

Parkdale filed a complaint with the Employment Standards Branch of the Ministry of Labour in November 1993. This was almost one year after Mrs. S was terminated and thus under Bill 49's 6 month time limit for filing claims would not have been allowed.

The Ministry's fact finding was held in 1995. Mrs. S was awarded the full amount of her claim. The employer paid the amount owed in March 1995.

Source: Parkdale Community Legal Services

MS. M - FLOWER SHOP EMPLOYEE

Ms. M worked at a flower shop in Toronto continuously for almost five years, except for a two-month temporary lay off shortly before she was fired. The employer said that Ms. M quit, and refused to give her any termination pay or vacation pay.

A year later Ms. M heard found out that she could contest her employer's refusal to pay termination and vacation pay and sought help from Parkdale Community Legal Services. She filed a claim with the Employment Standards Branch of the Ministry of Labour. An employment standards officer held a fact-finding meeting and reached a settlement between Ms. M and her former employer. The settlement was for 50% of the original claim of \$2454 therefore Ms. M. received \$1227.

If the six-month limitation provision in Bill 49 were implemented, Ms. M would not have been able to file a claim because she only learned of her rights a year after she was fired.

Source: Parkdale Community Legal Services

MS. D - BAKERY CLERK AND CASHIER

Ms. D worked for six years and one month as a bakery clerk and cashier at a well-known supermarket chain located in the Etobicoke/Mississauga area. She was making the top rate.

She was suspended in June 1993 without warning ten days after an incident involving an undercover security investigator posing as a customer. The 'customer' was in a rush and left money at the check-out. Ms. D wanted to wait until the customer returned for her receipt or until she had a chance to scan similar items through the check-out for inventory purposes before putting away the money. After a busy day she forgot about the money. But the next morning she left an envelope containing the money and a note of explanation for her supervisor. She was not questioned about the incident until 3 days later. At the time of her suspension she was given a note and immediately escorted out of the store but she was told her job was not in jeopardy. However she was then fired on the same day that two people were hired to replace her.

The company owed her \$2600 in termination, vacation and severance pay.

Ms. D contacted Parkdale Legal Services to represent her who sent a demand letter to the employer and filed an Employment Standards claim.

The fact-finding meeting occurred one and one-half years after the claim was filed.

In March 1995 the employer finally paid Ms. D. the \$2600 owed.

Source: Parkdale Community Legal Services

MS. C - CASHIER

Ms. C worked for five years and four months as head cashier at a well-known supermarket chain located in the Etobicoke/Mississauga area. She then worked for almost a year in the accounting department at the chain's Head Office.

She was suspended in June 1993 from her head cashier job for "breach of company policy" for the same incident involving Ms. D (see previous story). Ms. C did not remind Ms. D to leave the money at the end of the day and she did not immediately report the incident. Ms. C was questioned 2 days after the incident and again a week later. Then two weeks later she was terminated from her cashier job by telephone while working at her job in Head Office. Three days later she received a letter at the office terminating her from both jobs.

The company owed her \$5700 in termination, vacation and severance pay.

Ms. C contacted Parkdale Legal Services who sent a demand letter to the employer and filed an Employment Standards claim.

The fact-finding meeting occurred one and one-half years after the claim was filed. At the meeting the employer could not refer to a specific policy Ms. C had breached and neither Ms. D nor Ms. C had been trained on how to handle a situation such as that which occurred.

In March 1995 the employer finally paid Ms. C the \$5700 owed.

Source: Parkdale Community Legal Services

MRS. SAVITA SINGH & MR. RANDY JONES - RETAIL EMPLOYEES

Nine hours without a break!

It's becoming increasingly common for some retail outlets, such as dollar stores, to require employees to work alone for nine hour shifts. They aren't allowed to leave the store.

Mrs. Singh and Mr. Jones are two of the many workers who phone the Workers' Information and Action Centre to say they're not phoning because they want more money or even a chance to use the washroom, what they need most is a chance to leave the store to get some fresh air for a few minutes.

Under the Employment Standards Act, the employer must give workers a half-hour break at least every five hours.

Mrs. Singh and Mr. Jones will probably keep their heads down and endure the nine-hour stretches because they don't want to jeopardize their jobs.

Source: Workers' Information and Action Centre

MRS. REESE - STORE MANAGER

Mrs. Reese worked as the store manager for a retail clothing store for approximately two years.

When Mrs. Reese notified her employer that she was pregnant and planned to take maternity leave some six months later, her employer reduced her rate of commission, as well as her hours of work. Eventually, her duties were drastically changed and her hours were cut in half.

Mrs. Reese tried to negotiate with her employer to return to her regular duties and wages. Her employer refused and Mrs. Reese was fired.

Mrs. Reese has filed an Employment Standards Claim for compensation for the penalties imposed on her due to her intention to take maternity leave, including the loss of her job. The amount of the claim is more than \$35,000.

Source: Parkdale Community Legal Services

TIM - NIGHT SHIFT AT THE GAS STATION

Tim is 24 years old. He's an honours political science graduate, and will begin his Masters degree this fall. He needs money to pay off his student loans and to finance his graduate studies. In addition to his job at the gas station, Tim works 3 days a week in a warehouse for minimum wage.

Tim works for a Petro Canada franchise in the Finch and Kennedy area of Scarborough. The gas station employs eight men and the owner's wife.

He works the midnight to 8 a.m. shift, four days a week. He is required to arrive 30 minutes before the shift starts to take inventory of supplies in the cashier's area: candy bars, car accessories and supplies, and so on. The employer doesn't pay Tim for the 30-minute inventory time, even though by law Tim is entitled to wages for this period.

At night the customers must pay before they fill their tanks with gas, and Tim's job is to authorize and activate the appropriate pump.

Tim is responsible for inventory so the employer makes him pay cash out of his own pocket for any missing items at the end of the shift. It's easy for customers to steal a candy bar, and Tim loses, on average, a dollar a night. Workers on the day shift lose an average of \$5 or \$6. Everybody gets minimum wage, even those who've worked more than three years at the station. No one gets paid overtime rates when they work overtime. Workers are resigned to losing money out of pocket each shift. If someone drives off and doesn't pay or if a pump over-pumps, the workers pay out of their own pockets. Once someone lost a total of \$27 on one shift!

The owner says the only situation where he won't hold the worker financially responsible is if there's a hold-up with gun because you can't get away from a gun. If the worker is held up with a knife, he'll have to pay because you can get away from a knife.

Tim knows that it's illegal to require workers in this situation to pay for thefts out of their own pocket, and he's paying what the owner requires from him each night with his credit card so that he has a

record.

Tim works for eight and one-half hours each night without a break. The owner says if he has to use the washroom he must leave the door open so that he can watch the station.

Tim has worked for three months at this job; he can't risk filing a complaint with the Employment Standards Branch until he's ready to leave. To date, he hasn't received any vacation pay. If the owner doesn't give him vacation pay when he quits, then Tim will include that in his claim along with the unpaid wages.

Source: UNITE

MRS. J - COSMETIC SALES

Mrs. J worked in the cosmetics department at a major department store in downtown Toronto for eight years selling cosmetics. She worked full-time and took her work very seriously.

One morning she arrived at work and was handed a letter. The letter informed her that her services were no longer required. The company was down-sizing. She found it very strange that she was laid off, as the company was hiring in other departments.

The letter told her that she would not have any scheduled hours and not be required to work, but she would be considered an employee until November 1996. Also, the company asked her to sign a written release stating she would not be entitled to any severance pay if she got another job before November.

Mrs. J is owed eight weeks of termination pay and eight weeks severance pay for eight years of loyal and competent service. The company is trying to avoid paying her termination pay by "maintaining" her on the company records until November, even though she has been told she will not work.

When Mrs. J contacted Parkdale Community Legal Services she learned that the same retailer had closed another store earlier in the year. The retailer had used the same tactic with all the women working in the closed store - they were required to sign a similar release stating they would not get severance pay if they got another job. The women at the store sought legal advice and refused to sign the release. Only then did the store back down and pay the women the severance pay they are owed.

Source: Bad Boss Hotline and Parkdale Legal Services

MR. B - LABOURER

Mr. B arrived in Canada from Guyana in 1994 and found his first job in a variety store in Toronto. His job involved manual labour and he was responsible for cleaning the vegetables and packing boxes.

He only worked for one day in July 1994. He worked from 10:30 a.m. to 8:15 p.m. without any breaks.

The employer refused to pay Mr. B saying that he'd supplied only proof of having submitted an application for a Social Insurance Number, and did not yet have a S.I.N. However the law states that Mr. B merely had to provide the employer with the number 3 days after receiving it. Therefore Mr. B was legally entitled to work in Canada and fully covered by employment standards.

Mr. B sent a demand letter to the employer and filed a claim with the Employment Standards Branch of the Ministry of Labour.

In February 1995 the employer paid Mr. B the full amount owed of \$65.33 for the 9.75 hours of work done the previous July.

If Bill 49 is implemented and claims are limited to a low minimum, workers in Mr. B's situation might very well be ineligible to file a claim, and employers like the variety store operator would get free labour.

Source: Parkdale Community Legal Services

SERVICES TO BUSINESS

JONATHAN - FOOT COURIER

Jonathan is a 25 year-old student who begins his Phd studies this fall. He's one of a lot of young people desperate for a job who end up in a "scam".

Jonathan answered an ad in the newspaper to work as a "Metropass" courier. These couriers pick up and deliver packages on foot.

The company made Jonathan sign a contract asserting that he was self-employed, meaning that he would receive no vacation or holiday pay and would be responsible for all expenses, including his Metropass. He was also required to sign a blank GST form and told it would set him up as an independent business. He was told he'd receive no wages, only a commission to be determined as a percentage of the company's fee for each package -- 55-70 per cent depending on the daily volume of business.

Jonathan's first and last day of work was June 13, 1996. Jonathan was provided with a walkie-talkie and sent to a point in downtown Toronto to wait for the dispatcher's message. That day he was assigned only nine packages to deliver. Couriers must be available from 8 a.m. to 5 p.m. or their rate of pay decreases.

There was no dollar amount, no package price, noted on the waybill for each parcel Jonathan delivered. At no point was he told how much the company was charging the customer so that he could calculate his share. Jonathan's employer is a sub-contractor for nine other courier companies, so the foot couriers' percentages would in fact be a percentage of the percentage the contractor pays to Jonathan's employer. Jonathan thinks he made about \$5 for that full day of work!

Jonathan felt that the couriers were being exploited and so he went to the company's Lesmill Road office to speak to Mr. T., the president. Jonathan was worried about the legal status of the contract he had signed, and asked Mr. T for a copy of the contract and the GST tax form. The president refused and ordered Jonathan to leave, saying "I hope you trip on the way out."

Jonathan asked that the contract, the GST form, & his pay for June 13, 1996 be mailed to him. He still hasn't received anything.

Source: UNITE

MRS. L - CLEANER

A cleaning supply company in North York hired Mrs. L to clean at various locations: a bank, a sporting club, a bingo hall, a factory.

Mrs. L, an immigrant from Portugal, worked 70 hours a week for a six-month period. When the company fired Mrs L, they owed her \$4916.94 in unpaid wages, overtime pay, holiday pay, vacation pay and termination pay.

Mrs. L and a co-worker in the same situation sought help from Parkdale Legal Community Services. Staff at Parkdale sent a demand letter to the employer and filed a claim with the Employment Standards Branch of the Ministry of Labour in July 1993.

The employer telephoned Mrs. L and her co-worker, threatening that they would "regret it" if they pursued the case. Fearful, the co-worker withdrew.

In November 1994 the employment standards officer assigned to the case issued an order to the employer to pay the wages owed but the employer never paid. In August 1994 the Ministry filed a certificate of claim to ask for wages for the Employee Wage Protection Program Fund. Mrs. L received the money owed to her in February 1995.

Source: Parkdale Community Legal Services

MR. A - BUILDING SUPERINTENDENT

A man worked for ten years as the superintendent of a North York apartment building. He and his wife received accommodation in the building at a reduced rate. He was on call 24 hours a day, seven days a week. He did a good job and was well-liked by the tenants in the building.

The man went into hospital for tests, and doctors found a cancerous tumour. They kept him in the hospital a second week to do more tests. At the beginning of the second week the company that owned the apartment building started proceedings to evict his wife from the apartment.

Under the Landlord and Tenant Act building superintendents only need to be given seven days notice of eviction; superintendents are excluded from the provisions of the Employment Standards Act.

This boss wasn't breaking the law!

Source: Workers' Information and Action Centre

MR. C & MS. M - TELEMARETERS

Mr. C and Ms. M were hired by a telemarketing company based in the Parkdale area of Toronto. The company employed about 20 people to do "cold calling" - choosing numbers from the phone book and phoning people to drum up business for a cleaning company.

Mr. C and Ms. M worked for the company at separate times. Each worked from 9:30 a.m. to 3:30 p.m. 5 days a week.

They expected to be paid, but weren't, and so quit.

The company closed down. Mr. C and Ms. M are trying to get the wages owed to them through the Employee Wage Protection Fund.

Meanwhile the company seems to have opened up again under a new name.

Source: Parkdale Community Legal Services, 531-2411

MS. M - TELEMARKETER

Ms. M worked as a data entry clerk for a Toronto telemarketing company. She was expected to work from her employer's home entering information into a data base. She worked part-time for five and a half hours each day, five days a week. It was a work schedule that enabled her to look after her family.

She worked for almost a month. When she asked the company when her first pay cheque would be, she was terminated. The company owed her three weeks wages and vacation pay totalling \$650.00. Ms. M made several unsuccessful attempts to get the money owed to her.

The employer disappeared. Ms. M contacted Parkdale Community Legal Services in early December - almost nine months after she had not been paid. She wanted to know what her legal options were to get the money she is owed. She complained to the Ministry of Labour. They are waiting for an employment standards officer to arrange a fact-finding meeting.

The new Bill 49 provision limiting complaint and investigation periods to six months would wipe out Ms. M's claim.

Source: Parkdale Community Legal Services

MS. R - OFFICE CLEANER

Ms. R was employed by a Toronto company to clean office buildings and food courts in downtown Toronto. Approximately 200 other cleaners work for this company.

She's divorced and is the sole support for her children. She worked for the company for three years. During that time she had only one week's vacation. She often worked overtime and wasn't paid for all of her overtime hours.

Mrs. R. became quick ill with an infected tooth. She required a sick leave. Her supervisor refused her any time off. She saw a dentist over lunch and was required to go straight back to work, if she wanted to keep her job.

At a later date, the manager sexually harassed her. She resisted his attempts to seduce her and she was fired. The manager intimidates and harasses other female workers.

The employer owes Ms. R approximately \$6000.

Ms. R asked Parkdale Community Legal Services for help. They attempted to negotiate with the employer but he denied that he owed Ms. R any money. Parkdale filed a claim on her behalf with the Ministry of Labour.

Bill 49 will have a profound impact on a case like this. Mrs. R. will lose over \$4,000 in overtime pay, vacation pay and termination pay owed to her by law.

Source: Parkdale Community Legal Services, 531-2411

PERSONAL SERVICES

MRS. S - DOMESTIC WORKER

Mrs. S was employed by a family in Agincourt to care for three children, do housework and cook meals. One of the children was mentally handicapped and required extra care. The family wanted her to live in their house, but she refused because the room they offered her was filthy and only the size of a closet.

Mrs. S worked 12 hours a day without a break for lunch. As well as taking care of the children she cleaned the house, which was very dirty, and also did the laundry, made all the meals, and bathed the children.

After 11 days she left this job because of the poor working conditions.

The employer owed her \$975.22, but paid her only \$450.00. Mrs. S contacted Parkdale Community Legal Services for, who helped her file a complaint with the Ministry of Labour.

The employment standards officer assigned to her case determined that she was owed another \$325.38. The officer evaluated the case on the basis of an 11 hour day, with an hour off for lunch. Parkdale's appeal of the case was denied on the grounds that the amount outstanding was too low.

Source: Parkdale Community Legal Services

MILA - DOMESTIC WORKER

Mila worked as a domestic worker in the suburban home of a medical doctor who sponsored her immigration for that purpose. Mila began work on August 20, 1990.

Mila was required to care for children, clean the house, do laundry, cook meals, and so on. She typically began work at 7 a.m. and worked until 9:30 or 10 p.m., after she put the children to bed. On average, she worked about fourteen hours per day, seven days per week. She was paid \$350.00 per month to start and \$375.00 after she was given a raise.

The employers exercised complete control over Mila's life. She was not permitted to leave the house by herself -- except to take the children to the park -- and was not given a house key. She was not allowed to use the telephone for personal calls. She was ordered not to discuss her finances or hours of work with anyone outside of the home. When she started ESL classes in September 1993, she was forbidden to tell anyone where she lived or let anyone drive her home from school. When she was to be interviewed by immigration, the employers ordered her to say that she worked only five days per week and threatened that she wouldn't get her landed immigrant status unless she lied.

Mila was not permitted to have her own bank account. The employers opened a joint bank account with her and she was not permitted to go to bank without them. After she pressed them, the employers opened a GIC which reverted back to the joint account at the conclusion of its term.

It cannot be overstated how dependent Mila was upon her employers, a situation which they encouraged.

By the end of 1993 and early in 1994, Mila became increasingly upset because the doctor's husband had not renewed her passport or the GIC. On February, 2, 1994, there was a particularly heated argument and the husband ordered Mila to leave. She left and went to the mall and then to school. The employers refused to pick her up and, when she had made it home, would not speak to her. She spent the night there but did not eat any food or do any work. The following morning she left the house and, with the assistance of some friends she had met at the park,

was able to get into a shelter.

Mila has an employment standards claim for unpaid wages, overtime, public holiday pay, termination pay and vacation pay. The total amount of the claim is \$46,716.

Source: Parkdale Community Legal Services

MRS. G - ALTERATIONIST

Mrs. G worked for a dry cleaning company doing clothing alterations. She worked for the company full-time for 2 years and only received \$90 per week, which is well below minimum wage.

None of the workers were paid for all of the hours worked, their wages were reduced over the years and there were many health problems because of the types of chemicals used in the workplace. She and a co-worker complained about the job conditions and pay, however no changes occurred. She left the job because she could no longer stand the injustices she and her co-workers were suffering.

She did not file a formal complaint with the Ministry of Labour for fear of not being able to use her employer as a reference which would make it more difficult for her to find another job. She was also concerned about jeopardizing the jobs of her co-workers.

Source: UNITE

MRS. D - LIVE-IN DOMESTIC WORKER

Mrs. D was hired by a family in Scarborough as a domestic worker and live-in caregiver. She worked for the family for three years. She worked from 7:30 a.m. to 5 p.m. daily. Because she had digestive problems, she did not eat meals with the family and made her own arrangements for food.

Mrs. D and the employer differ as to why she left after three years. She says she was fired; the family says she quit.

She received no termination pay. She was never paid for overtime hours worked. Even though she didn't take her meals with the family, both room and board were deducted from her weekly wages.

Mrs. D complained to the Ministry of Labour. The Ministry decided she was only owed \$576.61. Mrs. D wanted to retrieve the full \$2500 the employer owed her, so she filed an appeal of the Ministry's decision. The case was settled out of court through the employer's lawyer and Mrs. D received the full amount claimed.

If the six-month limitation provision in Bill 49 were implemented, Mrs. D would not be eligible to receive the money her employer deducted for meals she didn't eat nor would she be eligible for overtime earned but not paid during her first two and one-half years on the job.

Source: Parkdale Community Legal Services

MS. L - DOMESTIC WORKER/HOUSEKEEPER

Ms. L came to Canada from the Philippines. She was employed for three years by one family as a domestic worker. She became a Canadian citizen.

Another couple in Toronto hired Ms. L to work as a domestic and housekeeper. She was contracted to work for \$900 a month - \$4.09 an hour. Ms. L worked for one week. The husband sexually assaulted Ms. L. She left the workplace immediately and, because of the nature of the assault, has not contacted the employer for the wages owed to her.

Ms. L has asked Parkdale Community Legal Services to help her. Parkdale is filing a claim with the Employment Standards Branch of the Ministry of Labour on her behalf. The employer refuses to pay her what she is owed.

Source: Parkdale Community Legal Services

MARIA - DOMESTIC WORKER

A domestic worker was sponsored by a family to come to Canada. She was put to work the same day she arrived after a very long flight.

She worked very long hours - 6:30 a.m. to 10:30 or 11 p.m. In addition to taking care of the family's two children, she had to clean house and help out in the employer's business. Shortly after arriving, her employers went on a trip abroad for two weeks, and left her alone with the children. She was terrified that anything would happen because she knew no one in Canada.

The family deducted from her cheque the amount that had been advanced to her to pay for her plane ticket. No overtime was ever paid.

The domestic was assaulted by her employer on two occasions and had to be removed from the employer's home by the police. She was so terrified of her employer that it took her over one year to make a decision to file a claim. The claim was for more than \$13,000. It was settled for \$8,000.

We learned that two other domestics had similar experiences with the employer and that the Employment Standards Branch was well aware of him. No fines were ever levied against him.

Source: Centre for Spanish Speaking Peoples

STELLA - PSYCHIC HOT LINE

Stella worked for Frieda's Psychic Hot Line for three years. This Hot Line is very popular, and is advertised in television infomercials. Ten other workers answer calls on Stella's shift.

After three years as an employee, Stella was informed that she was now an "independent contractor." The employer told all the workers the same story: from that moment on the boss deemed them to be "independent contractors."

Instead of getting the minimum wage, they now work only on commission, and their hourly income works out to less than the minimum wage. Their cheques arrive three weeks later than promised, and five weeks after they've earned the money.

These workers are employees; they are not "independent contractors," and should be receiving at least the minimum wage. It's unlikely that any will risk getting fired for lodging a claim for unpaid wages until they find another job, and that may take a long time.

Source: Workers' Information and Action Centre

TELEMARKETERS FOR SUPERFITNESS CENTRES

The Story of a Job Scam

- The SuperFitness home-based telemarketers phoned the public to join the local SuperFitness club.
- Workers were told they would receive the greater of \$12.50 an hour or a \$10 piece-rate for every new SuperFitness member they signed up.
- Workers were expected to log onto the central Super Fitness phone system by a set schedule every day.
- Workers were electronically monitored by SuperFitness. If workers were not cheery enough on the phone, they were told to be happier. If they are not logged onto the system, SuperFitness called to find out why.
- SuperFitness told all the workers they are "co-venturists". Under the *Employment Standards Act*, a worker is not an independent contractor just because the boss says they are.
- SuperFitness told workers they would only pay for talk time - not all of their real work time or overtime. Under the *Employment Standards Act*, a worker must receive wages for work time.
- SuperFitness told workers a pay cheque would be sent to them as soon as they worked for the equivalent of \$150.00, not on a regular pay day.
- SuperFitness told some workers they had to pay a \$40.00 deposit to work just to show "how serious they were."
- When workers call because pay cheques haven't arrived, SuperFitness says "they are in the mail". After repeated phone calls and going to the Super Fitness office, only one worker received a cheque for \$150.00.

Vinny worked for a month with Superfitness and logged 275 hours. She is owed \$3,932.49 in outstanding wages including 55 hours of overtime. SuperFitness claims she only worked 114 hours. She has been told since July 1995 that the cheque is in the mail. To date, she has received only \$250.00 for work completed in July. Vinny's bills are piling up and not paid.

Anne-Marie has an extremely ill 3 year old son. She must stay at home to take care of him. When the Harris government took 21% off her welfare cheque, she knew she had to find some work to make ends

meet. Working from home seemed to be the solution. Instead, Anne-Marie was taken by the SuperFitness scam. She's owed \$2,340.

Christine worked for 85 hours over a 16 day period. SuperFitness hasn't kept track and claims she worked for only 6 days. She is owed \$1,105.00 in back wages.

David is owed almost \$1,300. SuperFitness has not recorded his accurate work time. He worked 18 days when SuperFitness claims 12 days. He's gone to Superfitness but not received what he's owed.

A former manager informed Parkdale Community Legal Services that between 700 and 1500 telemarketers were hired between July and November 1995. No one was paid.

Many of the people who worked as telemarketers for SuperFitness didn't file their claims with the Ministry of Labour until more than 6 months after they performed the work. If the 6-month limit on the claim period in Bill 49 is passed, they would be out of luck. And, what is the Ministry doing about the 1,000 or so other people who were ripped off by SuperFitness?

Source: Parkdale Community Legal Services

DOMESTIC WORKER

A domestic worker went to the Employment Standards Branch. Her employer had paid her \$300 per month for the two years she had worked for him. She was told by the employer that, as she was not a permanent resident in Canada, and she had been hired outside Canada, she had to be paid what she would have earned in her country of origin.

At the Ministry, she was told that nobody could help her because she had failed to keep her own records. She told the Ministry she had tried to sort this out with the employer and she had ended up on the street on Christmas Eve. Her neighbours had taken her in and accompanied her to the Ministry.

The domestic worker approached a community group. Eventually, the case was settled when the employer paid the woman \$3,500.

Source: Centre for Spanish Speaking Peoples

DOMESTIC PRISONER

A Canadian couple went south for their winter vacation. They were so enchanted with their hotel maid that they invited her and her young daughter to come to Canada and work for them. They told her that they would take care of all the papers, including all the necessary paperwork for the daughter to go to school.

As soon as the domestic came to Canada, the couple took all her papers, including her passport. They lived outside Toronto. The domestic was 'circulated' among the couple's family, cleaning one house per day. She did not get paid for almost a year and was kept as a virtual prisoner. She knew no one in Canada. Food for her and her daughter was limited, and, at times, they searched the garbage at night and ate the employers' leftovers.

After working like this for approximately one year, the domestic begged her employer to take her to Toronto. The employer drove her to the 'Spanish' quarter and told her to walk around a bit and he would pick her up in an hour. The domestic saw a sign in Spanish in a store window, went in, and asked the woman to help her. She was given the number of a community organization, who represented her to obtain immigration status and the money owed.

The case was eventually settled for an undisclosed amount.

Source: Centre for Spanish Speaking Peoples

MS. A - DOMESTIC WORKER

Ms. A was hired as a live-in domestic worker to look after the children, cook, clean, do laundry and do late-night babysitting. She worked for her employers for 6 months.

Ms. A was fired immediately after she gave 2 weeks notice following an altercation that arose when the employer left the kids in the care of Ms. A after she had already booked the night off. Ms. A had signed a contract agreeing to do 3 nights of free babysitting and was working between 10-47 hours overtime over her regular 44 hour work week.

Ms. A had already complained to her employers after her second month about the excessively long hours of work. A former nanny had also worked extra hours which were unpaid.

Ms. A filed a claim with the Ministry of Labour for \$6000 for unpaid wages, overtime, vacation pay and termination pay owed within the 2 year limitation period.

Source: Parkdale Community Legal Services

MRS. M - BABYSITTER

Mrs. M worked for 6 years babysitting, cooking and cleaning. She worked over 50 hours per week but was only paid for 50 hours at her regular wages.

Mrs. M gave her employer a letter asking to receive overtime pay. She was then fired without notice.

Mrs. M approached Parkdale for advice, but right now feels that she would rather not take legal action.

She can only claim overtime for 2 out of the 6 years during which she was improperly paid. She can therefore claim \$2000 for overtime pay over 2 years. Bill 49 would further limit the potentially retrievable amount to that which was accumulated during the latter 6 month period.

Termination pay in the amount of \$1800 is also owed. Mrs. M was paid through the company her employers owned. This company has now gone bankrupt and if Mrs. M is paid through the Employee Wage Protection Program, her termination pay will not be covered.

Source: Parkdale Community Legal Services

MS. F - LIVE-IN DOMESTIC WORKER

Ms. F worked for 3 separate employers over a period of 2 years, cleaning the house and taking care of the children including some light cooking. She worked long hours for all of her employers and was not paid for her overtime hours. It is very common for domestics to be treated this way and they often do not learn of their rights until a long time after their employment has ceased.

Ms. F was afraid to discuss problems with her employers because of her dependant position. And, experience proved that her reluctance was justified.

She worked for one employer for 17 months, routinely working 15 or 16 hours a day Monday to Friday, and also working Saturday and Sunday. The employer kept all of her documents, including her passport and her bank book. Finally, even though she was reluctant to leave the children she was caring for, she had taken enough. She complained about the way she had been treated and gave notice. The employer forced her out of the house before she had found another place to stay. In fact, he banged on her door one night and moved all of her belongings into the front yard. He only released her documents to her after she contacted Intercede and received their assistance.

Ms. F was owed her final month's pay as well as unpaid overtime and holiday pay for the entire period of her employment. The total claim that Ms. F made through the Employment Standards Branch was for almost \$33,000.00.

During a Ministry of Labour hearing before a referee, the employer disputed every claim and statement made by Ms. F. She had not kept good records of her work hours, but the employer's records were very suspicious. The employer could not produce documents to substantiate many of his claims. Ms. F claimed that she had received many of her pay cheques months after they were due and the employer again denied this. But her bank book proved her story.

The referee, in his decision, stated "*the issue is entirely one of credibility. Either the worker's quite elaborate version of events is an untruth designed to collect wages to which she is not entitled or she is telling the truth and the employer has been guilty not only of not paying the worker her rightful wages, but of treating her like a slave.*"

In the end, despite a difficult case, the Ms. F. was awarded almost \$23,000 in overtime pay and unpaid holiday pay. That decision however, is now under judicial review after being appealed by the employer.

In her next job, where she worked for 2 months, Ms. F was fired when her employer discovered her keeping records of her hours. The employers stated they could not pay her for the hours as recorded. That job result in a claim through the Ministry of Labour for \$2200 for overtime and unpaid wages.

Ms. F worked for 1 month for one month at her third job and is claiming almost \$1000. In two of the situations she was forced to sign a release claiming that no more money was owed in order to receive her final cheque.

With high unemployment, Ms. F and thousands of other workers can't tell a boss to "take this job and shove it." They endure great hardship and violations of their basic rights in order to have a job -- any job. It is only when the employer fires them or they find another job that they will complain. Vulnerable workers need the 2-year complaint period and 2 year investigation of an employer's past practice that is currently available under the *Employment Standards Act*.

Source: Parkdale Community Legal Services

FOOD AND BEVERAGE SERVICES

RESTAURANT COOK

Mr. R worked for 10 months as a cook and waiter for a Toronto restaurant.

He worked seven days a week, 13 hours a day, without a break for lunch. He didn't get overtime pay, or any vacation or holiday pay. The employer paid Mr. R \$200 cash each week.

One day, Mr. R called a legal clinic and asked about minimum wage and overtime rates. He went over to the legal clinic and picked up a Ministry of Labour publication. He isn't a very good reader, so he took the pamphlet in to work, showed it to his employer and asked to be paid minimum wage. The employer fired him on the spot.

He has now filed an employment standards claim for \$16,000 in unpaid wages, holiday pay, vacation pay, overtime pay and termination pay.

Source: Parkdale Community Legal Services

DINAH - RESTAURANT WORKER

Dinah worked at a restaurant in a trendy downtown mall for two days. She performed food preparation and dish-washing duties. Before she began working, the manager informed her that the job paid \$7 per hour.

The first day she worked from 2 to 4 p.m.; the second day she worked from 9:30 a.m. to 4:30 p.m. - nine hours in total. On the second day, the manager didn't give Dinah a meal break. She had to eat her lunch while working.

At the conclusion of her second work day, however, Dinah was informed that her services were no longer required. She was paid \$20 cash. The employer owes Dinah \$45.52 in unpaid wages and vacation pay.

The employer has refused to pay the money, stating that she didn't hire Dinah and does not have to pay her for the time that she was just "trying her out." In her defence, the employer points to the many other employers she knows who "try out" employees and don't pay them, including a doughnut shop that doesn't pay employees for their first week.

The employer has hired a lawyer to contest the \$45.52 claim!

Source: Parkdale Community Legal Services

ROBERT - BARTENDER

Robert was employed at a theatre and bar on Wellesley Street in Toronto. Four men work at the theatre; eight work at the bar.

Robert was employed as a bartender and as a door cashier, collecting money from customers as they came in. The employer didn't pay him or the others wages for the bar-tending shifts (\$5.95 an hour by law). His tips were his only income during those hours. Also, he was required to work more than five hours without the mandatory half-hour break, the employer did not pay holiday pay, and also deducted "spillage" at the end of each shift.

The employer dismissed Robert without notice or termination pay.

Robert contacted the Employment Standards Branch and sent a demand letter to his employer.

A local newspaper reported the situation in a story in June, and the owner said he's now changed his practice for the bar-tending shifts, and is paying workers \$5.50 per hour. That's still below the minimum required for liquor servers - \$5.95 per hour.

Source: HIV & Aids Legal Clinic

JENNIFER - WAITRESS

A well-known upscale restaurant chain employed Jennifer as a waitress serving alcohol and food in a North York location.

Jennifer received many commendations for her work and was named employee of the month. One Friday evening a customer tipped her by giving her a joint of marijuana. Jennifer immediately went to her manager and gave him the joint, explaining that a customer had just given it to her. He fired her on the spot. The next Monday there was a notice posted on the staff board saying that Jennifer had been fired for illegal possession. This public allegation upset Jennifer as much as being fired did.

Jennifer's father is a former law enforcement officer, and he went to the restaurant to speak to the manager about how unjustly the restaurant was treating her. He wasn't successful.

Jennifer is suing the restaurant for unjust dismissal, and for the termination pay they owe her.

Source: Workers' Information and Action Centre

HELEN - ONE OF THREE ICE CREAM VENDORS

Helen works for a well-known Toronto on-the-street ice cream vendor. She's paid minimum wage.

She and her co-workers have to report to the company location by nine every morning. If workers arrive later than nine o'clock they're reprimanded, warned, and sometimes fired.

It take 30 to 45 minutes for the company to stock the vendors' carts. Usually the workers aren't paid for this waiting time, even though they lose their job if they don't report at the required time.

Helen complained, and sometimes now the company does pay her for the 30 to 45 minutes she must wait before her cart is ready for the road. The company knows that by law workers must be paid from the time they're required to report for work. But, if the company can get away with not paying workers for this time, it won't pay them.

Helen's boy friend got a job with the same company, working at the Molson Indy. When the boss told him he wouldn't get paid by the hour, that his only earnings would be his commission, he quit. He knew that other workers were getting the minimum wage.

One rainy day, the manager told Maria, a co-worker, to wait until he gave her the go-ahead to leave for her work station at Ontario Place. She waited six hours until he gave her the ice cream for her cart. She didn't get a cent for those six hours.

Source: Workers' Information and Action Centre

SANJI - CLEANER

Sanji was employed as a cleaner by a well-known downtown Toronto restaurant from May 1992 to March 12, 1996.

When he first hired Sanji, the employer informed him that he would work eight hours per day, seven days per week and be paid at the rate of \$650.00 per week.

Sanji's job consisted of cleaning the premises of the restaurant. He was responsible for sweeping, mopping, cleaning walls, buffing and waxing the floors and cleaning the washrooms. In order to perform these duties, Sanji was required to work from approximately 4 a.m. until noon every day.

In March 1993, almost a year after he began working, the employer informed Sanji that effective April 1993 there would be a new arrangement regarding his employment. The employer stated that if Sanji did not accept this new arrangement, he would lose his job and someone else would be found to replace him.

The employer stated that, under the terms of this new arrangement, Sanji would no longer receive bi-weekly pay cheques. Instead, he was required to submit monthly invoices in the amount of \$2816.66 (the monthly equivalent of \$650.00 per week). He was told that he had to add GST to the invoice and was instructed to obtain a GST registration number for this purpose. The employer told him to register his name as a business with the Ministry of Consumer and Commercial Relations. The employer gave Sanji a sample invoice complete with all of the necessary calculations filled in.

The employer also assigned extra duties to Sanji at this time. In addition to cleaning the restaurant, Sanji had to clean the offices located above it. He wasn't given any more money for this extra work.

As his employer had made it clear that his job was at stake, Sanji complied with all of his employer's demands out of fear of losing his livelihood. Sanji was unaware of his legal rights or the potential consequences of his actions and was not given an opportunity to seek independent legal advice.

The employer continued to exercise control over how and when Sanji

performed his work. The company provided all of the tools and supplies which Sanji required to clean the restaurant. As he worked set hours for a fixed salary, Sanji had no chance of profit or risk of loss.

From April 1, 1993 to March 12, 1996, Sanji worked seven days per week. From Monday to Friday, he was required to clean the offices from 7 p.m. to 11 p.m. and then clean the restaurant from 4 a.m. to noon. He did not remain at work during the period between these two shifts. On Saturday and Sunday, Sanji cleaned the restaurant only, working from 4 a.m. to noon. In total, Sanji worked 76 hours per week.

Sanji worked on every public holiday during his employment. He received no additional remuneration beyond his regular weekly salary for working these days, nor did he receive a substitute day off.

He was informed on March 12, 1996 that his services would no longer be required, effective immediately. Sanji was not given any notice of termination.

For the period from June 6, 1994 through March 12, 1996 Sanji is owed in excess of \$45,000 in unpaid wages, public holiday pay, termination pay and vacation pay.

Source: Parkdale Community Legal Services

JANE - CAFE TRAINING SCAM

This situation is becoming more and more common in Toronto bars, large operations and small ones. Workers report that some bars make workers complete a free "training period" of two weeks before they begin paying workers' wages!

Jane was employed by a small neighbourhood bar to serve beer and wine. The employer told her the first day was a training day; she'd have to work for free. He showed her where the refrigerator and cash register were. That was the training.

The second day on the job she worked from noon until nine in the evening, and got paid minimum wage. The third day she began work at noon, expecting to work until nine. At six the boss told her because things were slow, he'd only be paying her \$5 an hour for the time between six and nine.

Jane realized that she couldn't count on a regular wage from this job, and quit. She put in a claim to the Employment Standards Branch of the Ministry of Labour for wages for the nine hours she had worked the first day, and for the additional \$1.85 she was owed for the last three hours on the third day.

Workers aren't going to learn that they're working for free or for reduced wages until after they've reported to work. You can't find out how bad the boss is until you actually begin work.

If the minimum claim level that Bill 49 proposes to set is low then cafe managers like Jane's employer will have a guaranteed supply of free labour, and workers like Jane will lose wages they've worked for.

Source: Workers' Information and Action Centre

AMRUL - FAST FOOD RACISM

Amrul, a South Asian, worked at a very well-known fast food restaurant near the Toronto waterfront.

The manager regularly directed belittling remarks at Amrul. Examples are - "you sweat too much" and "it looks like you're wearing a roti on your head." Amrul suffered a constant barrage of racist comments every time he reported for work.

Amrul objected and asked the manager to stop the harassment. In retaliation, the manager gave Amrul fewer and fewer hours of work.

Amrul wasn't getting enough hours of work to support himself so he had to quit working at the fast food restaurant and find more work elsewhere.

Source: Workers' Information and Action Centre

MR. M - DRIVER AND FOOD PREPARATION WORKER

Mr. M worked for a Scarborough firm that catered food for children for more than 2 years, from 1994 to May 1996. His job was to prepare food, and to deliver it to schools.

Mr. M. was facing harassment from his new supervisor. He was constantly belittled in front of other workers. One day he was sent home early and told to call in the next day. Later that evening he received a call at home from the company owner telling him he was no longer needed.

He was terminated without pay or proper notice in May 1996. He didn't receive termination pay of his vacation pay. He is owed almost \$1,000.00

A demand letter sent to his employer has not produced the termination or vacation pay owed to him.

Mr. M. will have to wait well over 9 months before his case is investigated by the Ministry of Labour.

Source: Parkdale Community Legal Services

RESTAURANT WORKERS

A well-known restaurant in town knowingly employed a number of undocumented workers¹ in its kitchen. They routinely worked 12 hours, seven days per week for a couple of months. The restaurant did not pay them.

One of the workers complained to the restaurant manager and demanded payment. He was sent home with the promise that 'they would think about it'.

The worker received a call from the restaurant the following day and was told to come in to pick up his cheque. On arrival, he was met by immigration officials and carted away without his cheque. A friend who accompanied him was told that when you are an illegal, the money you earn does not get paid to you, rather, it goes into a 'trust fund' managed by the government!

The *Employment Standards Act* covers all workers, regardless of their immigration status.

A claim was filed with the Employment Standards Branch - amount unknown.

Source: Kensington Bellwoods Community Legal Clinic

¹ Workers from other countries who have not received permits to work in Canada.

DONUT SHOP WORKER

A single parent with a young child was employed in a donut shop. She was told by the owner that he could only pay her \$5 per hour but would give her 'lots of hours'.

This woman worked non-stop, through weekends, etc. She was paid cash. She asked her employer to pay her by cheque, with statutory deductions. Her employer refused and she was quietly 'dropped out' of the weekly work schedule.

She has filed a claim with the Employment Standards Branch for about \$3,000.

Source: Centre for Spanish Speaking Peoples

KIM - COUNTER-HELP AND WAITRESS

Kim worked for almost a month at a new cafe/restaurant in downtown Toronto. The job involved making coffees, cutting and garnishing desserts, processing take-out orders and cashing customers out at the cash register.

In order to be hired Kim, as well as all the other staff, had to agree to train without pay. Kim trained for 9.5 hours. She often worked more than 5 hours before being allowed to take a break and on one 7.5 hour shift, was only allowed a 15 minute break.

She was removed from the schedule without warning because she preferred to do waitress work over counter work. The employer said he was "afraid to approach" her about the change and suggest more free training as she had made more of a fuss about the initial free training than had the other staff.

The pay cheque for wages and vacation pay bounced. Half of the amount was eventually received 3 weeks after being let go and the remaining amount was received 1 week later.

Other staff have had problems of cheques bouncing and some kitchen staff have not been paid for over a month. There is a very high staff turnover. In one case the schedule was changed on Sunday night and the person who was meant to work on Monday was not informed of the changes. She was then fired for not showing up to work. This was not even communicated directly to her but through her room-mate who is also employed at the cafe. In another case someone was fired without notice and an employment standards claim was filed for unpaid wages. Finally, several employees from the U.K. on a work-exchange program were hired at the restaurant. When 2 of them quit the employer told them to go to the Ministry of Labour if they wanted to get paid. By the time this issue is settled the two students will no longer be in Canada.

Source: Workers Information and Action Centre

OTHER INDUSTRIES

J.C.

J. C. says:

"I am one of the 'lucky' ones who was hired on permanently after a short stint as a contract worker. My work day is longer than the normal seven or seven and one half hours, most of the time it lasts for nine or ten hours... This is the price of getting and keeping a job in a company that is actually expanding and not down-sizing... I'll probably continue to work these extra hours, unpaid, because I have been unemployed and really don't want to be so again..."

Source: J. C. of Oakville's story was told in
"Career Monitor" by Janis Foord Kirk;
The Toronto Star, June 8, 1996, Section G1

MR. M - QUALITY ASSURANCE

Mr. M worked for two and a half years as a telemarketer, selling insurance for a mid-sized company. His hours varied. He started on the night shift and was promoted to the day shift. His job duties changed and he became the quality assurance checker for the company. His job involved listening to other tele-marketers taped conversations to ensure customers were aware of the terms and conditions of the deals they signed.

One afternoon the employer informed him that he'd made a small error one day, and terminated Mr. M without warning or notice, and without paying any termination pay in lieu. He wasn't given a chance to correct the error. He wasn't given any chance to explain. He felt he had been a good employee.

Mr. M was not aware of his employment rights. Mr. M was owed almost \$700 in termination pay and vacation pay. It took Mr. M over 4 months to find out that he was indeed owed money under the law. Certainly his employer did not tell him.

A claim was filed on behalf of Mr. M with the Employment Standards Branch perilously close to the 6 month time limit set in Bill 49. In the end, with demand letters sent to the employer, Mr. M. received his money - almost eight months after he was fired.

Source: Parkdale Community Legal Services

CLEANERS - CHURCH

A group of older cleaners contacted our organization. They clean the offices of a church. They were only paid \$5 per hour and wanted to know what to do.

When we explained to them that, if a complaint was filed, no one could guarantee that they wouldn't be fired, they decided to drop the matter.

Source: Centre for Spanish Speaking Peoples

MRS. A - TYPIST

Mrs. A did clerical work from her home for a small company. She typed letters and other documents. She worked part-time for this company for 3 years.

She was only paid \$6.00 per hour, less than minimum wage and no deductions were made. Although she was trained as an architect, her qualifications were not recognized in Canada and she needed to earn extra money to support her children and to fund her part-time studies as she tried to requalify herself to work at her profession in Canada.

Her job ended when the company began having financial problems and her employer was not sure if he would be able to continue paying her. Because she had a good working relationship with her employer she was reluctant to get him into trouble by complaining about not being paid the minimum wage.

Source: UNITE

MS. MILLER - COOK & LIVE-IN SUPERVISOR

Ms. Miller was hired to work in a rooming house for psychiatric survivors. Four other workers were employed at the rooming house.

Ms. Miller's job was to be a cook during the day. Later, she worked as a live-in supervisor for two years.

She was paid in cash. The employer didn't make any deductions for unemployment insurance. She received less than minimum wage. She left the job due to a pregnancy, and the employer did not issue a record of employment when she left.

She was initially wary about approaching the employer for the money owed to her because she was thinking of returning to work after her baby was born, and she did not want to jeopardize her job prospects.

She sought help from Parkdale Community Legal Services. Staff have filed a claim on her behalf. The employer owes Ms. Miller a great deal more than \$10,000. She'll be lucky to get a few hundred dollars.

Source: Parkdale Community Legal Services

MS. KARMA - COOK

Ms. Karma is the sole support for a family of four. She worked as a cook in a rooming house for one year.

She was paid \$5.00 an hour, less than the minimum wage, and didn't receive any vacation pay.

She contacted Parkdale Community Legal Services. Staff attempted to negotiate full payment with the employer, but the employer refused. Parkdale filed a claim for approximately \$5000 in outstanding wages with the Employment Standards Branch of the Ministry of Labour. They are now waiting for a date to be set for the fact-finding meeting.

It's a common story in Parkdale.

Source: Parkdale Community Legal Services

**REAL EMPLOYMENT STANDARDS
IMPROVEMENTS
THAT WE NEED:**

REAL EMPLOYMENT STANDARDS IMPROVEMENTS THAT WE NEED:

✓ STRONGER ENFORCEMENT OF THE LAW

We need tough, pro-active policing of our employment standards.

- ☒ Inspections and "spot checks" of companies' payroll records
- ☒ Real protections for employees against employer reprisals

✓ NEW IMPROVED WORKING STANDARDS

More than ever, workers find themselves in unstable, temporary or part-time jobs.

We need stronger laws, not weaker ones.

☺ *No exemptions from employment standards.*

Workers should be entitled to the same employment rights and protection under the law regardless of their age or where they work.

☺ *A \$1.00 increase in the minimum wage.*

The current \$6.85 minimum wage is too far below the poverty line. Even if a worker has full-time hours, a new \$7.85 rate means just over \$16,000 per year.

☺ *Overtime pay after an 8 hour day, 40 hour week.*

The current law only provides overtime pay after 44 hours.

☺ *3 weeks vacation after 5 years.*

Other provinces have this law already. In Ontario, our only guarantee is 2 weeks after 1 year's service.

☺ *More paid holidays.*

In addition to the 9 under current Ontario law, we need more paid holidays (during the December 24 - 31 period, for example).

-
- ☺ ***Equal pay for part-timers.***
"Part-timers" should get the same hourly rate as "full-timers" doing the same job in their workplace.
 - ☺ ***Paid breaks.***
There is only an unpaid 30 minute lunch break in Ontario law after 5 hours. We need a guarantee of breaks in each half shift.
 - ☺ ***Rights to sick leave and personal leave.***
Ontario's laws do not provide job protection if we're sick or have to take care of sick family members.
 - ☺ ***Teleworkers and other homeworkers need more protection in the law.***
No employer should be allowed to force someone to turn their home into a workplace.
 - ☺ ***Just cause legislation.***
Employees have no protection from unjust firings except for anti-discrimination protection under the Ontario Human Rights Code. Employers should have to justify the dismissal of employees.

APPENDIX A: GUIDELINES

EMPLOYMENT STANDARDS WORK GROUP PROJECT

Over the next few months we're putting together a binder (perhaps for publication) of workers' stories, cataloguing ESA violations that are a regular part of many workers' lives. The working lives and vulnerability of unorganized low-wage workers are largely invisible to the mainstream media and politicians. Each person's story will make our argument stronger. We want to put the stories into a form that constituents and organizations can use to inform the public and lobby MPPs. It's easy to dismiss one story, it's harder to ignore 101 stories.

Guidelines for persons collecting information

These guidelines are a checklist of information to cover, rather than a format for an interview. It's best to encourage the worker just to tell you about a typical day at work.

Information about employer

Name _____ ok to use the name? yes. no!

Location (detail) _____

Nature of the business (detail) _____

Number of employees _____ (detail-countries of origin, male/female, etc.)

Information about the employee

Circle: Don't use this person's real name. Name would worker like us to use instead _____

It's ok to use this person's name publicly. Name _____

Can we check back to confirm accuracy of our write-up?

Yes. Phone number/good time to call _____

Details about job (such as "sews elastic in sweatpants", works M-Sat)

Describe problem (including dates, times)

Check: Paid at least the minimum wage? (\$6.85/hr) Liquor Server(\$5.95) Student(\$6.40) Homeworker(\$7.54) Paid for all hours worked? Overtime (1 1/2 times the normal hourly rate) after 44 hours/week? 30 minute (unpaid) break after 5 hours of work? Two weeks vacation after 12 months? Vacation pay? Has employer said worker's an independent contractor or self-employed? Holiday pay?

("Describe problem" cont.)

Any co-workers with similar problem? (detail)

Describe attempts to resolve problem and/or reasons for not.

Has the worker complained to the Ministry of Labour? (how & when - results?)

Other details such as family info, country of origin, how long on the job, etc.

Please ask worker to sign:

"I agree to let the Employment Standards Work Group use my name and story."

Signature _____ Date _____

Witness _____

Address/phone if worker wants to be on mailing list:

Please give worker your phone number in case she/he thinks of more to tell you, or has friends who might want to tell their stories too. Offer to provide copy of "final story."

Information about interviewer/source

Name/phone number of person who heard this story directly from the employee

Are *you* willing to speak to the media? yes. no!

Any points you think need clarifying/ following up before publishing story?

Send to "Real Stories Project", c/o UNITE, 25 Cecil Street, Toronto, M5T 1N1 Fax: 977-6999. Ph: 977-1384. Information on diskette in Wordperfect 5.1 or 6.0 welcomed!

APPENDIX B: EMPLOYMENT STANDARDS WORK GROUP

Employment Standards Work Group

Aboriginal Legal Services
Canadian Auto Workers
Centre for Spanish Speaking Peoples
Connect Information Post
Dundurn Community Legal Services
East Toronto Community Legal Services
Judy Fudge
HIV & AIDS Legal Clinic
Homeworkers' Association
Immigrant Women's Job Placement Centre
INTERCEDE
Jane Finch Community Legal Services
Irit Kelman
Labour Behind the Label Coalition
Labour Council of Metropolitan Toronto and York Region
Law Union of Ontario
Low Income Families Together (LIFT)
Metro Toronto Chinese & Southeast Asian Legal Clinic
National Action Committee on the Status of Women
Northwood Neighbourhood Services
Ontario Coalition for Better Child Care
Ontario Council of Agencies Serving Immigrants
Parkdale Community Legal Services
Scarborough Community Legal Services
South Etobicoke Community Legal Services
Lynn Spink
Thirty-two Hours: Action for Full Employment
Toronto Coalition Against Racism
Toronto Workers' Health & Safety Legal Clinic
Unemployed Workers' Council
Union of Needletrades, Industrial & Textile Employees (UNITE) - District Council
University Settlement House
West Scarborough Community Legal Services
Woodgreen Community Services
Working Women Community Centre
Workers' Information and Action Centre of Toronto

APPENDIX C: SOURCES

SOURCES

Centre for Spanish Speaking Peoples
1004 Bathurst Street
Toronto, Ontario M5R 3G7

Community Legal Worker: Consuelo Rubio
Phone: (416) 533-0680

HIV & AIDS Legal Clinic
399 Church St., 3rd Floor
Toronto, Ontario M5B 2J6

Staff Lawyer: Ruth Carey
Phone: (416) 340-7790

Homeworkers' Association
c/o UNITE
25 Cecil Street
Toronto, Ontario M5T 1N1

Coordinator: Fanny Yuen
Phone: (416) 977-7236

Kensington Bellwoods Community Legal Services
489 College Street, Suite 205
Toronto, Ontario M6G 1A5

Winnie Sanjoto
Phone: (416) 924-4244

Northwood Neighbourhood Services
2300 Sheppard Avenue West, Suite 101
Weston, Ontario M9M 3A4

Executive Director: Victoria Pica
Phone: (416) 748-0788

Parkdale Community Legal Services
165 Dufferin Street
Toronto, Ontario M6K 1Y9

Community Legal Worker, Employment Rights Division: Jan Borowy
Phone: (416) 531-2411

UNITE

**Union of Needletrades, Industrial and Textile Employees - District Council
25 Cecil Street
Toronto, Ontario M5T 1N1**

**Manager: Alex Dagg
Phone: (416) 977-1384**

**Workers' Information and Action Centre of Toronto
277 Victoria Street, Suite 102
Toronto, Ontario M5B 1W2**

**Coordinator: Shelly Gordon
Phone: (416) 392-1203**

