



Backgrounder: Migrant Workers Deserve Equal Wages

How it's unfair!

- Ontario's laws exempt farm workers, many of whom are migrant workers, from being paid minimum wage.
- Other migrant workers that are supposed to get minimum wage by law can't because of fear.
- Employers are allowed to deduct all kinds of fees from worker's paycheques, so that at the end of the day workers are making less than the promised wage.
- Migrant workers' immigration status in the country is tied to their employer. Making complaints about unpaid wages or poor working conditions during your contract can get you fired or negatively impact chances of staying in the country. Under Ontario's laws workers only have 6 months to file an employment standards complaint when they are owed wages – that means it's too late to complain after your contract is up.
- Workers like *Maria* who work 60 hours/week but are only paid for 40, are owed over \$30,000 in unpaid wages after three years. But Ontario's laws limit claims to a maximum of \$10,000.

How to make it right; remember we are in it together!

All workers, including agriculture workers, should be protected equally, and so should their wages and contracts. All workers should be entitled to minimum wage, overtime and other statutory protections. They should be able to enforce these rights without worrying about missing an unfair 6 month deadline or having to under-claim how much they are actually owed by employers. Some simple policy changes Ontario could make:

- a) No ESA exemptions for migrant workers:** The ESA exemptions for agricultural workers (including Farm Employees, Harvesters, Flower Growers, and those engaged in processing, packing or distribution of fresh fruit or vegetables) should be removed. Agricultural workers should be



entitled to all of the following ESA provisions: minimum wage, overtime, vacation and holiday pay, hours of work, daily and weekly/bi-weekly rest periods, eating periods and, time off between shifts,

- b) **Prohibition of changes to wages or terms and conditions of employment:** Migrant workers require special protection under the ESA to prohibit employers from lowering conditions from their contract of employment. Workers should be entitled to the greater of the number of hours actually worked per week, or the number of hours specified in the contract. Where an employer has reduced hours below those promised in the contract, workers should be able to claim the difference in salary through an employment standards complaint. Employers who reduce wages and working conditions provided in an employment contract or agreement must also be assigned a penalty.
- c) **Model contracts:** The Ministry of Labour should provide comprehensive standard contracts for migrant workers under each Temporary Foreign Worker Program and require that these contracts be executed in Ontario and registered by employers with the Employment Practices Branch, along with any contracts signed during the immigration process. A copy of all employment contracts must be provided to the signatory migrant worker.
- d) **Access to termination and severance pay for seasonal agricultural workers:** Many agricultural workers return year after year to work for the same employer, often for contracts of 6-8 months. In the event of a termination, these seasonal workers face barriers accessing termination and severance pay that acknowledges their actual years of employment, as the break in employment between contracts may be longer than 13 weeks. The ESA should be amended so that seasonal migrant workers can access termination and severance pay that recognizes their years of service and the continuity of an employment relationship with the same employer. Migrant workers should be considered to be on a temporary lay-off between their yearly contracts with the same employer, up to a period of 35 weeks. Furthermore, the ESA should recognize the service seasonal agricultural workers provide to Ontario. Should a migrant worker change employers, the ESA should require that the new employer recognize the time the migrant worker worked for previous employers, similar to existing ESA provisions when there is a change in building service providers.



- e) **Extend time limitations for filing an ESA claim and remove monetary cap:** Given the specific realities facing migrant workers, the time limitation on filing an ESA claim for migrant workers should be extended to 4.5-5 years. Many workers are only comfortable filing a claim once their immigration status has been made less precarious. We have met many migrant workers who are owed over \$30,000 in unpaid wages, overtime and other statutory benefits. In line with other jurisdictions in Canada, there should be no monetary limit on amounts recoverable through the ESA.

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