



A Guide for Employers on

Sick Leave

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Managing sick leave

This employer guide explores the basics of sick leave to help you avoid common pitfalls. How do you manage absences in the workplace? Have you prepared or updated your sick leave policy?

Whether your organization is big or small, a long-established firm or a new start-up, managing leaves of absence in the workplace helps support your business growth and strong organizational culture.

Ontario's labour laws regarding employee management have changed since Bill 47 reversed many of the laws that Bill 148 enforced in 2018. It is important to understand your employees' rights and how to establish an appropriate sick leave policy that reflects your business practices.

How can you manage absence in relation to employee job satisfaction and morale? Get to know the laws around sick leave. Use this resource guide to gain a better understanding of Ontario's labour laws and adopt our HR best practices for your business.

As an employer in Ontario, you must provide up to three full days of unpaid, job-protected sick leave per calendar year to each employee.

Understanding sick leave

All employees - regardless of the size of the business they work for and whether they work full-time or part-time hours - are entitled to three days of sick leave every calendar year. Sick leave can be taken due to employees' personal illness, injury or medical emergency.

It is important to note that there is no pro-rating of sick leave. Whenever an employee begins work, they are entitled to three days of leave for the remainder of the year. The Employment Standards Act (ESA) states that all sick leave is unpaid.

Employees must inform their employer before starting sick leave or as soon as possible after starting it, although this does not have to be in writing. They do not lose their right to sick leave, however, if they fail to provide notice.

Elective surgery and sick leave

Employers commonly ask whether an employee is entitled to sick leave for pre-planned or 'elective' surgery. Since such surgery is scheduled ahead of time, it is not considered a medical emergency. However, if it is required to address an underlying medical condition (e.g. a hip operation or laser eye surgery), this would qualify for sick leave because it relates to an illness or medical condition. Cosmetic surgery for purely elective reasons would not be considered for sick leave because it is usually not due to an illness or injury.

Medical notes and sick leave

A doctor's appointment due to illness or injury would qualify for sick leave, but an appointment for an annual check-up generally would not—unless it was scheduled because of an underlying medical condition (e.g. if an employee requires regular check-ups because of a condition such as Crohn's Disease).

Regular prenatal appointments are not entitled to sick leave because a normal, healthy pregnancy is not an illness. However, under the Ontario Human Rights Code, employers must accommodate pregnant employees attending prenatal appointments up to the point of undue hardship.

Another area of concern is doctors' notes. An employer can ask an employee to provide a medical certificate from a doctor or health practitioner if it is reasonable to do so. What is 'reasonable' depends on the circumstances and whether an employee visited a doctor while they were ill.

Overall, whether or not an illness, injury or medical emergency is caused by an employee's own actions is irrelevant to the question of whether an employee is entitled to sick leave.

Designating absences as sick leave

Where an employee is entitled to sick leave under the ESA, the employee (rather than the employer) decides whether to designate an absence as sick leave.

An employee may be entitled to sick leave, but decide not to claim the absence as a sick leave day. In this case, he or she decides simply not to exercise their leave entitlements.

What if the employee fails to notify the employer?

If an employee fails to notify their employer of their sick leave, they do not lose their right to take it. The ESA specifically allows for situations where the employee may not be able to notify the employer in advance, especially in the case of a medical emergency.

An employer may choose to discipline an employee who failed to give notice when they were able to do so, but must take care to ensure that it is clearly linked to the failure to give notice, and not a penalization for the employee taking leave.

Do you have a sick leave policy in place?

Managing sick leave starts with proper workplace policies. Establishing a sick leave policy is key to effective absence management. You can set these expectations in your employment agreement or employee handbook.

To prepare an effective sick leave policy, consider these five HR best practices:

1. Review the Employment Standards Act to ensure you meet the minimum requirements of the current laws (they changed twice between 2018 and 2019 alone)
2. Be transparent about time off and if pay is provided during a sick leave absence
3. Outline arrangements and procedures for recording absences
4. Determine the procedure for short-term and long-term disability
5. Include information on support and assistance for those who were off sick and are returning to work

Managing sick leave

As an employer, it is important to know your obligations under the Employment Standards Act to operate your business with confidence.

Knowing you are taking the right steps when staff request sick leave will make a significant difference in the workplace. For example, your employees have the right to take up to three days off for sick leave per calendar year, but they are all unpaid.

Are you noticing an increase in employee absences? It is always a good idea to check in with them. You should also make sure your employee handbook is up to date with new policies and procedures as labour laws continue to change.

Learn more

If you have questions about the Ministry of Labour or the Employment Standards Act, call Peninsula today. We are dedicated to providing small business owners with HR support.

1|(833)|247|3652

We've got you covered.

Employer FAQs

What are employers asking about sick leave?

1. What is the definition of sick leave?

Sick leave is job-protected leave that gives employees the right to take time off because of their own illness, injury, or medical emergency.

2. **How many days of sick leave can an employee take?**

Employees are entitled to three days of unpaid sick leave.

3. **Do employers pay for sick leave?**

No, all sick leave days are unpaid.

4. **Can an employee take sick leave in part days?**

No, leave must be taken in complete days.

5. **Can an employee take sick leave for looking after a family member who is ill?**

No. However, in that situation, an employee may be entitled to family responsibility leave.

6. **If an employee starts working part way through the year, how many sick days do they get?**

All employees are entitled to the full three days of sick leave in a calendar year, regardless of when they began working.

7. **Do employees need to request sick leave from their employer?**

Employees must tell their employers if they are taking sick leave before or right after they start; however, this does not need to be in writing.

8. **Can employers ask for proof of sick leave?**

Yes. Employers can ask for evidence of sickness if the circumstances are reasonable, including a sick note from a doctor or nurse.