



**My complaint
regarding the
application of
labour standards
has been entrusted
to a lawyer**

What happens now?

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please visit our website at **cnesst.gouv.qc.ca/normes**.

Follow-up on my complaint

Have you filed one or more complaints against your employer with the Commission des normes, de l'équité, de la santé et de la sécurité du travail? Has the Commission made an investigation at your employer's place of business and has it resulted in a claim on your behalf?

Steps have been taken to attempt to resolve the conflict, but without success. Your complaint has been entrusted to one of the lawyers of the Commission des normes, de l'équité, de la santé et de la sécurité du travail at the Direction des affaires juridiques. This lawyer's services are free of charge. Here is how your file will be processed and the steps that may be taken according to the type of complaints filed.

Enter the information provided to you by the Commission des normes, de l'équité, de la santé et de la sécurité du travail and the information that your lawyer sends you as your case proceeds.

Employer's name: _____

COMMISSION DES NORMES, DE L'ÉQUITÉ, DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL

TYPE OF COMPLAINTS FILED	FILE NUMBER	
Pecuniary complaint		
Complaint for a prohibited practice		
Complaint for a dismissal not made for good and sufficient cause		
Complaint for psychological harassment		

Name of your lawyer: _____ Telephone no.: _____

HEARING

Date: _____ Time: _____ Room: _____
Courtroom of: _____

ADMINISTRATIVE LABOUR TRIBUNAL

CONCILIATION SESSION

Date: _____ Time: _____ Room: _____
Address: _____

HEARING

Date: _____ Time: _____ Room: _____
Address: _____

ARE YOU MOVING?

Remember to inform us of your new address.

You filed a pecuniary complaint

The lawyer designated to handle your complaint will analyze the file and take the steps that he considers necessary. If necessary, the lawyer will get in touch with you to clarify certain facts. He will inform you in writing of the main steps in the case, as it proceeds.

Among the steps taken, the lawyer may send an official notice to your employer. This document notifies the employer of the amount that is owing to you and informs him of the consequences of the failure to comply with the notice. The employer has 20 days to respond to this notice. It is possible that he may not make the payment claimed. The lawyer will then follow a series of rules to begin legal action on your behalf.

Several different situations may arise. However, the rules that the lawyer must follow are generally those described below.

First, your employer is given notice of legal action. A bailiff delivers this notice. The lawyer then refers the matter to the court to have the proceedings filed, with proof that your employer has been informed of the legal action. At this stage, the employer must file in court a written answer signed by him or by his lawyer.

Depending on the decisions of or the actions taken by your employer, the lawyer may enter your case before the court in various ways. The most frequent ways are:

1. inscription for judgment by default to answer;
2. inscription for judgment by default to produce its defence;
3. inscription for judgment by default to attend the management conference;
4. request for inscription for hearing and judgment.

1. Inscription for judgment by default to answer

This approach is used when the employer does not file a written answer within the stipulated time period. Your lawyer then asks that the case be inscribed for judgment in default to answer. The inscription must be accompanied by an affidavit*. Your presence in court is not generally required since the judgment is rendered based on the documents submitted to the court.

The inscription for judgment by default to answer is made at the courthouse designated in the claim. The judgment is generally handed down in the weeks that follow the hearing.

The lawyer has no control over these time periods since the hearing dates are set by court staff.

2. Inscription for judgment by default to produce its defence

This approach is used when the employer has filed an answer but has not presented his pleadings at the expiry of the time for doing so. Your lawyer will then ask that the case be inscribed for judgment by default to produce its defence. The inscription must be accompanied by an affidavit*. Your presence in court is not generally required since the judgment is rendered based on the documents submitted to the court.

The inscription for judgment by default to produce its defence is made at the courthouse designated in the claim. The judgment is generally handed down in the weeks that follow the hearing.

The lawyer has no control over these time periods since the hearing dates are set by court staff.

* An affidavit is a written statement by the inspector-investigator who handled your file, or in some cases by you, made under oath before a commissioner. This document serves as a testimony. Your lawyer prepares it. He sends it to you by mail, if necessary, to obtain your signature under oath.



3. Inscription for judgment by default to attend the management conference

This approach is used when the employer has produced an answer but failed to attend the management conference. Your lawyer will then ask that the case be inscribed for judgment by default to attend the management conference. The inscription must be accompanied by an affidavit. Your presence at court is generally not required since the judgment is rendered based on the documents submitted to the court.

Inscription for judgment by default to attend the management conference is made at the courthouse designated in the claim. The judgment is generally handed down in the weeks that follow the hearing.

The lawyer has no control over these time periods since the hearing dates are set by court staff.

4. Request for inscription for hearing and judgment

This approach is taken when the employer has filed an answer and a defence. Your lawyer then asks that the case be inscribed in court to be heard before a judge.

The request for inscription for hearing and judgment can be made within six months of your employer having been informed of the legal action.

The lawyer has no control over these time periods since the hearing dates are set by court staff.

Your presence is compulsory at the hearing. You will be called upon to give your version of the facts. Your lawyer may also call other witnesses. The employer has the same rights. While awaiting the hearing, it is important that you keep all of the documents that could be useful during the hearing, as well as the information required to contact the persons who might be called upon to testify on your behalf.

Upon receiving the date of the hearing, the lawyer will send you a notice to appear indicating the place, the date and the time. He will contact you in the month preceding the hearing to see to the preparation of your testimony, taking into account his availabilities and the complexity of the case.

OUT-OF-COURT SETTLEMENT

During the various steps, the employer may send your lawyer a settlement offer. Where such is the case, the lawyer will forward it to you. It is up to you to decide whether you will accept the offer, refuse it or negotiate.

If the case concerns several employees, special rules apply according to the circumstances. For example, a settlement offer can be accepted if the majority of the employees give their consent.

You can also ask your lawyer to try to settle the case out of court depending on the circumstances.

JUDGMENT

The judge may accept or reject your complaint. Your lawyer will inform you of the results obtained. He will also try to have the judgment enforced, if your complaint is accepted.

It may happen that your employer cannot be found or has no seizable property. In this case, the lawyer closes the file. However, the judgment will remain valid for a 10-year period. If you are informed of the new address of your employer or if you learn that the financial situation of your employer has improved during this period, get in touch with your lawyer. He will then have the judgment enforced and will inform you of the results obtained.

However, legal action can be taken against the directors of the company, where applicable.

You filed a complaint for a prohibited practice

The lawyer designated to handle your complaint will contact you when he receives the file. Furthermore, the Commission des normes, de l'équité, de la santé et de la sécurité du travail sent your complaint to the Administrative Labour Tribunal. This organization is in charge of hearing your case.

At this stage, the lawyer must wait to obtain a date to hear your case. The lawyer has no control over these time periods, because the hearing dates are set by the Administrative Labour Tribunal.

A hearing before the Administrative Labour Tribunal resembles courthouse proceedings. For example, you will be asked to give your version of the facts. You can also call witnesses. The employer has the same rights. Your presence is compulsory.

In the meantime, if you no longer work for your employer, you must try to find a new job. Be sure to make a note of all of the steps you take (for example: telephone calls, sending of job applications, and participation in interviews). At the hearing, you will be required to give evidence of the steps taken.

Before the hearing is held, various things could happen:

1. your employer may contact you to reinstate you in your former position or to offer you a new position;
2. your employer may send you a settlement offer;
3. you may obtain information concerning the sale of your employer's enterprise;
4. your employer may want you to undergo a medical expertise;
5. you may consider resigning from your job with the employer.

If one of these situations occurs, you must inform your lawyer.

Upon receiving the date of the hearing, the lawyer will send you a notice to appear indicating the place, the date and the time. He will contact you in the month preceding the hearing to see to the preparation of your testimony, taking into account his availabilities and the complexity of the case.

Depending on the case, approximately eight months may pass between the receipt of the file by the Administrative Labour Tribunal and the hearing.

At any time, from the moment when your lawyer receives the file and before the hearing of the case, the Administrative Labour Tribunal may wish to organize a conciliation session. This is an amicable settlement method in which the persons involved in the complaint try to reach an agreement. However, your consent and that of the employer are required. Your lawyer assists you and advises you during the conciliation session.



THE ADMINISTRATIVE LABOUR TRIBUNAL MAKES ITS DECISION

The Administrative Labour Tribunal may accept or reject your complaint in a maximum time period of 90 days following the last day of the hearing. The hearing may last more than one day, depending on the complexity of the case.

If the Administrative Labour Tribunal accepts your complaint, namely it judges that you were the victim of a prohibited practice, it can:

1. order your employer to reinstate you in the job that you held prior to the measure taken by the employer and to pay you, as an indemnity, the equivalent of the wages and the other benefits that you did not receive as the result of your dismissal, suspension or transfer;
2. order the employer to cancel the sanction or cease exercising discriminatory measures or reprisals, and to pay you an indemnity, where applicable.

However, if you work as a domestic, the Administrative Labour Tribunal can only order your employer to pay you an indemnity corresponding to the wages and the other benefits that you were deprived of by your dismissal.

The Administrative Labour Tribunal decides on the amount that your employer must pay you, if any, as compensation for the wages and other benefits that you have been deprived of since the dismissal. The Administrative Labour Tribunal takes into account the steps that you have taken to find a job, since you are under the obligation to limit the damages suffered as the result of the loss of employment. If you are unable to prove the steps you have taken, the Administrative Labour Tribunal can reduce the amount to be paid by the employer.

The decision of the Administrative Labour Tribunal is final and without appeal.

You filed a complaint for a dismissal not made for good and sufficient cause

The lawyer designated to handle your complaint will get in touch with you when he receives the file. Moreover, the Commission des normes, de l'équité, de la santé et de la sécurité du travail has sent your complaint to the Administrative Labour Tribunal. This entity is in charge of hearing your case.

At this stage, the lawyer must wait to obtain a date to hear your case. The lawyer has no control over these time periods since the hearing dates are set by the Administrative Labour Tribunal.

A hearing before the Administrative Labour Tribunal resembles courthouse proceedings. For example, you will be asked to give your version of the facts. You can also call witnesses. The employer has the same rights. Your presence is compulsory.

In the meantime, you must try to find a new job. Be sure to make a note of all of the steps you take (for example: telephone calls, sending of job applications, and participation in interviews). At the hearing, you will be required to give evidence of the steps taken.

Before the hearing is held, various things could happen:

1. your employer may contact you to reinstate you in your former position or to offer you a new position;
2. your employer may send you a settlement offer;
3. you may obtain information concerning the sale of your employer's enterprise;
4. your employer may want you to undergo a medical expertise;
5. you may consider resigning from your job with the employer.

If one of these situations occurs, you must inform your lawyer.

Moreover, if you wish, the lawyer can obtain from your employer a written document containing the reasons for your dismissal, where applicable.

Upon receiving the date of the hearing, the lawyer will send you a notice to appear indicating the place, the date and the time. He will contact you in the month preceding the hearing to see to the preparation of your testimony, taking into account his availabilities and the complexity of the case.

Depending on the case, approximately eight months may pass between the receipt of the file by the Administrative Labour Tribunal and the hearing.

At any time, from the moment when your lawyer receives the file and before the hearing of the case, the Administrative Labour Tribunal may wish to organize a conciliation session. This is an amicable settlement method in which the persons involved in the complaint try to reach an agreement. However, your consent and that of the employer are required. Your lawyer assists you and advises you during the conciliation session.



THE ADMINISTRATIVE LABOUR TRIBUNAL MAKES ITS DECISION

The Administrative Labour Tribunal may accept or reject your complaint in a maximum time period of 90 days following the last day of the hearing. The hearing may last more than one day, depending on the complexity of the case.

If the Administrative Labour Tribunal accepts your complaint, namely it judges that you were dismissed without good and sufficient cause, it can:

1. order your employer to reinstate you in the job that you held before your dismissal;
2. order the employer to pay you the sums lost since your dismissal;
3. make any other decision that it considers fair and reasonable.

However, if you work as a domestic, the Administrative Labour Tribunal can only order your employer to pay you an indemnity corresponding to the wages and the other benefits that you were deprived of by your dismissal.

The Administrative Labour Tribunal decides on the amount that your employer must pay you, if any, as compensation for the wages and other benefits that you have been deprived of since the dismissal. The Administrative Labour Tribunal takes into account the steps that you have taken to find a job, since you are under the obligation to limit the damages suffered as the result of the loss of employment. If you are unable to prove the steps you have taken, the Administrative Labour Tribunal can reduce the amount to be paid by the employer.

The decision of the Administrative Labour Tribunal is final and without appeal.

You filed a complaint for psychological harassment

The lawyer designated to handle your complaint will get in touch with you when he receives the file. Moreover, the Commission des normes, de l'équité, de la santé et de la sécurité du travail has sent your complaint to the Administrative Labour Tribunal. This entity is in charge of hearing your case.

At this stage, the lawyer must wait to obtain a date to hear your case. The lawyer has no control over these time periods, because the hearing dates are set by the Administrative Labour Tribunal.

A hearing before the Administrative Labour Tribunal resembles courthouse proceedings. You must show that you indeed were the victim of psychological harassment. As for the employer, he must show that he took reasonable steps to prevent psychological harassment and to put a stop to it. Consequently, you will be called upon to testify before the Administrative Labour Tribunal to give your version of the facts. It is also likely that other persons will be asked to testify.

In the meantime, if you no longer work for your employer, you must try to find a new job. Be sure to make a note of all of the steps you take (for example: telephone calls, sending of job applications, and participation in interviews). At the hearing, you will be required to give evidence of the steps taken.

Before the hearing is held, various things could happen:

1. your employer may contact you to reinstate you in your former position or to offer you a new position;
2. your employer may send you a settlement offer;
3. you may obtain information concerning the sale of your employer's enterprise;
4. your employer may want you to undergo a medical expertise;
5. you may consider resigning from your job with the employer.

If one of these situations occurs, you must inform your lawyer.

Upon receiving the date of the hearing, the lawyer will send you a notice to appear indicating the place, the date and the time. He will contact you in the month preceding the hearing to see to the preparation of your testimony, taking into account his availabilities and the complexity of the case.

Several months may pass between the filing of your complaint with the Commission des normes, de l'équité, de la santé et de la sécurité du travail, the hearing before the Administrative Labour Tribunal and its decision.

At any time from the moment when your lawyer receives the file and before the hearing of the case, the Administrative Labour Tribunal may wish to organize a conciliation session. This is an amicable settlement method in which the persons involved in the complaint try to reach an agreement. However, your consent and that of the employer are required. Your lawyer assists you and advises you during the conciliation session.



THE ADMINISTRATIVE LABOUR TRIBUNAL MAKES ITS DECISION

The Administrative Labour Tribunal may accept or reject your complaint. Its decision is final and without appeal.

If the Administrative Labour Tribunal accepts your complaint, namely it considers that you were the victim of psychological harassment and that the employer failed to meet his obligations, the Administrative Labour Tribunal may make any decision that it considers fair and reasonable. It can notably order the employer to:

1. pay you an indemnity corresponding to the lost wages, where applicable;
2. pay you punitive and moral damages;
3. pay for the psychological support that you require for a reasonable period that it determines;
4. reinstate you at work;
5. take all reasonable steps to put a stop to the harassment;
6. pay you an indemnity for loss of employment;
7. alter your disciplinary record.

The Administrative Labour Tribunal decides on the amount that your employer must pay you, if any, as compensation for the wages and other benefits that you have been deprived of since the dismissal. The Administrative Labour Tribunal takes into account the steps that you have taken to find a job, since you are under the obligation to limit the damages suffered as the result of the loss of employment. If you are unable to prove the steps you have taken, the Administrative Labour Tribunal can reduce the amount to be paid by the employer.

The decision of the Administrative Labour Tribunal is final and without appeal.

TO CONTACT US

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 **cnesst.gouv.qc.ca/normes**