

# PUTTING WAGES BACK IN WORKERS' HANDS



Workers are struggling with job insecurity and poverty. But our labour laws are failing to protect workers. All too many workers face unpaid wages, unpaid overtime and less than minimum wage.

One in three jobs is temporary, contract, part-time or self employment. These kinds of work leave workers with low pay, no benefits and little job protection.

## WORKPLACE VIOLATIONS ARE AT A CRISIS

### Why is wage theft happening?

Theft is a crime that is usually punished. Why are employers getting away with wage theft?

### Little chance of getting caught

The Ministry of Labour depends on employers to police themselves. Less than 1 percent of Ontario's 370,000 workplaces are ever inspected by the government to make sure employers follow employment standards law.

### Workers have to enforce Ontario's minimum workplace standards

When employer's don't pay wages, it's workers who have to enforce their rights. But most don't because they are afraid of losing their jobs. The few workers that do go after their unpaid wages, do so after they've left the job. Workers have to enforce their rights directly with their employer or ask the Ministry of Labour to investigate the violation.

### No consequences for wage theft

There is little cost to breaking the law. Employers that are caught in violation only have to pay wages they should have paid in the first place. That is, if the violation is not settled for less. Just over 2 percent of employers found in violation of the ESA pay a penalty, generally a ticket for \$360.

### Outdated employment standards

Some companies are trying to avoid employment standards. Employers hire workers indirectly. This could be through misclassifying workers as independent contractors or hiring through a middleman. Employers are looking for ways to pass the costs and legal responsibility of employment on to subcontractors and workers..

Increasingly workers do not appear on the company payroll. Unfair treatment increases as companies at the top, who benefit and make decisions, take no responsibility for violations of the law faced by the workers who make or sell its products.

Some employers pass on business costs to workers; the cost of cleaning supplies for cleaners or gas and car maintenance for couriers. Such practices push these workers into gaps in the law leaving workers without protection.

### The Reality of Wage Theft

**V** was offered a \$10 an hour banquet job, working from 6 pm to 6 am without breaks or overtime pay. The employer said 'take it or leave it'. But in today's labour market there is little choice. **F**, a meat cutter, worked 18 years in a small grocery store, never getting overtime pay for the hours he always worked. When **R**, a bakery worker, demanded her unpaid wages, the employer refused threatening to phone immigration because of her status.

### Wage Theft Facts

Unpaid wages, overtime and other violations are not just from a few bad bosses. The few studies that have been done confirm widespread ESA violations. In the late 1990's, a federal government Labour Standards Evaluation surveyed employers and found that 25 percent of employers were in widespread violation of the Canada Labour Code and 50 percent were in partial violation.<sup>1</sup> These findings were confirmed a decade later by Statistics Canada<sup>2</sup> and the Workers' Action Centre.<sup>3</sup>

## **ALL WORKERS are vulnerable to wage theft, some more than others**

Left unchecked, employers become confident about violating the ESA. Take overtime for example. Violations of overtime and hours of work are common across many industries and sectors. One out of five Canadians worked an average of 8.4 hours of unpaid overtime per week in 2010. That works out to be roughly \$12.7 billion in unpaid wages.<sup>4</sup>

Women, immigrants and racialized workers are more likely to be employed in low wage industries and work that is sub-standard.<sup>5</sup> Employment Standards apply to all workers. This includes those who don't have status to work in Ontario. But some immigration rules make it almost impossible for migrant workers to enforce their rights. Violations are not limited to immigrant workers or other vulnerable groups in the labour force – everyone is at risk to different degrees.

## **Wage theft hurts workers our communities our economy**

There is a ripple effect from unpaid wages. Workers forgo hard earned wages. Just look at unpaid overtime, the billions that are lost to our economy through less consumer spending in our local communities. Tax revenues are lost from unpaid wages which impacts social programs. Contributions to employment insurance, workers compensation and Canada pension are also lowered due to unpaid wages.

Workers who have little or no savings may be forced to use credit at high interest when wages are late or go unpaid. Loss of income has many effects. Low-wage workers may have to make up for unpaid wages by working longer hours or at a second job. Working long hours has significant health and social costs for workers, families and communities.

## **EVERYONE HAS A STAKE IN FIGHTING WAGE THEFT**

When employers violate the law, responsible employers are forced into unfair competition, setting off a race to the bottom that threatens to bring down standards throughout the labour market. We all suffer.

## **How Ontario can fight wage theft**

Ontario can join New York State and others that have passed Wage Theft Protection Acts. Passed in December 2010, the Act requires employers to pay three times the unpaid wages owed to workers among other measures. Illinois and Miami-Dade County have passed similar bills.

Working together we can stop wage theft. Let's put workers wages back in workers hands where it can benefit families, communities and our economy.



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# **OUR DEMANDS**

## **Stop Wage theft – Make all employers follow the law in all workplaces**

- Enforce employment standards in our workplaces
- Require employers who break the law to pay a penalty so they won't violate other worker's rights
- Give workers assistance to enforce their rights
- The Ministry of Labour should work with community and unions to go after companies and industries where wages go unpaid

## **Stop Wage theft - Update labour laws to protect all workers**

- Close the gaps in employment standards that leave workers without protection against wage theft
- Protect workers from being penalized when they try and get their rights on the job
- Equal pay for equal work – no discrimination in pay and working conditions for workers doing the same work but classified as part time, contract, temporary

## **Stop Wage theft – Increase the minimum wage to bring workers out of poverty**

- Ensure the minimum wage brings workers out of poverty and increases annually with the cost of living

## **Equal status and protection for all workers regardless of immigration status**

- Remove barriers to employment rights and protections facing temporary foreign workers and workers with precarious immigration status.
- Comprehensive immigration reform including permanent residency status for workers under the Temporary Foreign Workers Program and an inclusive regularization programs for people without status.

<sup>1</sup> Canada, Human Resources Development Canada (1997) 41

<sup>2</sup> 2005 Statistics Canada Federal Jurisdiction Workplace survey of employment practices, cited in Arthurs, Harry (2006) Fairness at Work: Federal Labour Standards for the 21st Century, Ottawa: Federal Labour Standards Review. 192.

<sup>3</sup> Workers Action Centre (2007) Working on the Edge, Toronto. 46

<sup>4</sup> This should be read with some caution as some of the workers included in Stats Canada's survey may be excluded from provincial and federal overtime provisions. The figure is calculated as follows: overtime premium pay 1.5 (overtime premium pay) x average Oct 2020 hourly wage (\$22.81) x 8.4 hours (average hours of unpaid overtime worked per week) x 52 weeks x Stats Canada 2009 total employment (16,982,900 x 5%) = \$12,692,170,315. Sources: Statistics Canada, Table 282-0081; Labour Force Survey, Average hourly wages of employees, October 2009 – 2010, CANSIM table 282-0069 and 282-0073 and CANSIM Table 282-0002 and 282-0022

<sup>5</sup> In 2008 Statistics Canada found that recent immigrants were more likely than Canadian-born workers to be forced into temporary or part-time jobs, end up in jobs for which they were over-qualified, and be paid lower wages. Statistics Canada (2009) "Study: Quality of employment in the Canadian immigrant labour market" The Daily Monday November 23, 2009.