

Filing Complaints for Migrant Workers in BC

This info sheet is designed to provide service providers, employers and volunteers who support migrant workers with information on various complaint mechanisms in British Columbia (B.C.).

INTRODUCTION

All workers in Canada are protected under federal and provincial/territorial laws.[1] If a migrant worker faces issues at work, they may decide to file a complaint or make a claim. Complaint mechanisms and claims processes in B.C. and across Canada are spread among different government agencies, while some share jurisdiction over certain issue areas. Government agencies that receive and process complaints and claims include Employment and Social Development Canada (ESDC), the BC Human Rights Tribunal, Employment Standards and WorkSafeBC.

EMPLOYMENT AND SOCIAL DEVELOPMENT CANADA

If your temporary foreign worker (TFW) client is facing abuse, you can report it to ESDC. Types of abuse that ESDC can investigate includes:

- Verbal or physical threats
- Bullying or harassment
- Threats to a TFW's status in Canada
- Not allowing a TFW to leave their work site or living accommodation
- Keeping a TFW's passport or documents from them,
- A TFW not receiving their correct pay or time off,
- Or a TFW being forced to do a different job than what they agreed to or what is stated in the Labour Market Impact Assessment (LMIA).[2]

Anyone can report abuse to ESDC, including the worker themselves, a colleague, the employer or a member of the public. However, when making a report on behalf of a client, it is important to have their consent. The following information is needed to make a report:

- The name, address and phone number of the business or organization
- The name(s) or positions of the people involved
- A description or explanation of the abuse. [3]

FILING A COMPLAINT TO ESDC (INTEGRITY SERVICES, SERVICE CANADA)

Report abuse of a TFW online, by phone, in-person or by mail:

- Complete the online form ([click here](#))
- Call Service Canada's telephone tip line: 1-866-602-9448 (available 24/7)

- Visit a Service Canada Centre ([click here](#) to find a Service Canada Office)
- Send the information to: National Investigative Services Integrity Services Branch Service Canada 165 Hotel-de-Ville, Phase 2, 6th Floor Gatineau QC K1A 0J2 Canada. 3

BC EMPLOYMENT STANDARDS BRANCH

TFWs in BC are protected under both the [Employment Standards Act and Regulation](#) and the [Temporary Foreign Worker Protection Act](#) and complaints can be submitted for the contravention of either legislation. If the issue is in violation of both, only one complaint must be submitted.[4]

LEGISLATION AND MANDATE

Employment Standards Act and Regulation	Sets the minimum standards for conditions of employment in the province, including hours of work, minimum wages, leaves of absence, termination notice and pay. [5]
The Temporary Foreign Worker Protection Act	Sets standards for licenses for foreign recruiters; certificates of registration for employers of foreign nationals; review of licenses and certificates of registration; foreign worker recruiter and employer obligations; and investigations, complaints and determinations.[6]

Exceptions

Some provincially-regulated TFWs in BC may not get full protections under this legislation. For example, farm workers do not need to be provided overtime pay.

TFWs living and working in BC but employed by businesses or industries that are federally regulated should consult Federal Labour Standards. [9]

FILING A COMPLAINT TO THE BC EMPLOYMENT STANDARDS BRANCH

A complaint for any violation of the Employment Standards Act and Regulation can be made by migrant workers themselves, a colleague or a member of the public.

Disclaimer: The following summaries have been compiled by AMSSA.

References:

1. Exceptional undocumented employees in federally-regulated industries (see Canadian Human Rights Act 40 (5))
2. When this issue is being reported, the worker should also seek immigration legal advice, to avoid getting into any trouble with respect to unauthorized work.
3. How to report abuse of Temporary Foreign Workers, available at <https://www.canada.ca/en/employment-social-development/services/foreign-workers/report-abuse.html>
4. Employment Standards. "Submit a complaint." Available at: <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/complaint-process/submit-a-complaint>.
5. Employment Standards Act. Available at: https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/00_96113_01
6. Temporary Foreign Worker Protection Act. Available at: <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/18045>

The complaint process through Employment Standards can take over a year as it requires an investigation, and the migrant worker and their representative must be involved at certain steps in the process. [7]

To submit a complaint to the BC Employment Standards Branch, complete the online form ([click here](#)). [7]

For general employment standards enquiries or to ask about a specific work situation, you can also contact the Employment Standards Branch [by email](#), or by phone:

- Call: 1-833-236-3700
- Text: 604-660-2421. [7]

Complaints under the Employment Standards Act must be made within 6 months of the violation if still employed, or 6 months of the date of termination. Complaints under the Temporary Foreign Worker Protection Act must be made within 2 years.

BC HUMAN RIGHTS TRIBUNAL

The BC Human Rights Tribunal is an independent, quasi-judicial body created by the [BC Human Rights Code](#). The Tribunal is responsible for accepting, screening, mediating, and adjudicating human rights complaints.[8] In BC, there are five main areas of daily life where people are protected from discrimination based on personal characteristics: [employment](#), [housing](#), [services](#), [publications](#), and unions and associations. In each area, people can file a complaint to the BC Human Rights Tribunal if their rights are violated.[8]

Filing a Complaint to the BC Human Rights Tribunal

There are separate forms to complete dependent on whether you are submitting a complaint for an individual or a group [8]

File a Complaint Online:

- [Online form for individual complaints](#)
- [Online form for group complaints](#)

File a Complaint by Email (BCHumanRightsTribunal@gov.bc.ca) or Mail to: 1270-605 Robson Street Vancouver, B.C. V6B 5J3

- [Individual Complaint Form \(Printable\)](#)
- [Group Complaint Form \(Printable\)](#)

File a Complaint by Phone

- Call 604-775-2000 - press 3 and then press 1 to speak to a Registry Officer

Additional Notes

*Complaint should be submitted within 1 year of the discrimination.

*Advice may be available from [BC Human Rights Clinic](#) lawyer or advocate.

*Filing a complaint for someone else: you must complete and file an

[Authorization- Form 1.2](#) and the relevant Form 1.1, 1.3 or 1.4, unless you are a lawyer or legal advocate.

* Naming respondents: ensure to give a legal name for a respondent and check if the BC Human Rights Code applies to the respondents. [8]

FILING A COMPLAINT TO WORKSAFE B.C.

WorkSafeBC was established by provincial legislation as an agency mandated to oversee [occupational health and safety](#) in workplaces in BC, except mines and federally chartered workplaces such as banks, radio and television. [9]

Migrant worker service providers, migrant workers or any interested party can report unsafe work conditions to WorkSafeBC as well as file a claim after a work-related injury or illness occurs. Work-related injuries or illness can include emotional harm caused by bullying, harassment, and/or sexual harassment and abuse.

Prevention Services

To report dangerous actions that might lead to workplace injury as well as to get information and assistance with health and safety issues in the workplace.

- Phone: 604-276-3100 (Lower Mainland)
- Toll-free: 1-888-621-7233 (Canada) [10]

Claims

Teleclaim Contact Centre: to report a work-related injury or illness

- Call: 1-888-967-5377 (1-888-WORKERS)

Online:

- [Reporting for workers or worker's representatives](#)
- [Reporting for employers](#)
- [Reporting for health care providers](#)

In person: ([Click here](#) for office locations throughout B.C.)

Mail: WorkSafeBC, P.O. Box 4700 Stn Terminal, Vancouver, B.C. V6B 1J1 [11]

Claims Call Centre: to inquire about claims processes and claim status

- Phone: 604-231-8888 (Lower Mainland)
- Toll free: 1-888-922-8807 (Canada)

Claims regarding the following, must be made by phone:-a fatality; a sexual assault; sexual harassment; hearing loss and an injury/incident involving a fisherman

Crisis Support Line

If a migrant worker or their family is in emotional crisis and they have been injured at work, WorkSafeBC can provide counselling services or reference to other service providers in their community.

- Phone (toll-free): 1-800-624-2928 [12]

Reference:

7. The Government of British Columbia Employment standards, Make a complaint. Available at: <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/complaint-process>

8. British Columbia Human Rights Tribunal, Human Rights Complaint process. Available at : <http://www.bchrt.bc.ca/complaint-process/>

9. WorkSafeBC, About Us. Available at: <https://www.worksafebc.com/en/about-us/who-we-are/mission-vision-values>

10. WorkSafeBC, Prevention Services (health and Safety Enquiries). Available at: <https://www.worksafebc.com/en/contact-us/departments-and-services/health-safety-prevention>

11. WorkSafeBC, Report a workplace injury and disease. Available at : <https://www.worksafebc.com/en/claims/report-workplace-injury-illness>

12. WorkSafeBC, Crisis support Line. Available at: <https://www.worksafebc.com/en/contact-us/departments-and-services/crisis-support-line>