

Frequently Asked Questions

This fact sheet explains the law in general. It is not intended as legal advice for your particular problem. Because each person's situation is different, you may need to seek legal advice. A lawyer at MWC reviewed this information in May 2018.

1. My employers are getting a divorce. Who should I work for? Where do I continue to live?

The first step is to check your Labour Market Impact Assessment (LMIA) and Work Permit (WP) and see whose name is on those documents. You are legally only entitled to work for the employer listed on the WP. If both the employers are listed on the work permit, then you may continue to work for both of them. However, if the employer you work for is not listed on the WP, then your employer needs to apply for a new LMIA with their name on it and you need to apply for a new WP with their name on it.

After the divorce, the parenting agreement may mean the child spends half their time with one parent and half their time with the other parent. But, you are only authorized to work 40 hours per week according to employment standards in British Columbia. It is advisable to establish a new work schedule with your employers to ensure you are not working overtime without adequate pay.

2. My employer is making me work overtime and not paying me for those hours. What do I do?

If your employer is not paying you for your overtime hours, you may send him or her a 'Demand Letter' demanding the amount you are owed. We can help you draft one if you are unsure of the wording. If your employer still refuses to pay, you can file a complaint at the Employment Standards Branch (ESB) within six months from the last day of employment. Please know that ESB complaints will not impact your immigration status. The department will help you recover money you are rightfully owed.

You will be required to provide evidence at ESB about your overtime hours. You will need to have your hours (including overtime) documented in writing. It is always advisable to **keep an employment diary** that you can present to establish your claim.

Feel free to give us a call and schedule an appointment to speak with us about your options. We are here to help.

3. My employer is not paying me any wages but he is remitting my 'taxes' to the Canada Revenue Agency. Is this legal?

It is **illegal** to not pay an employee and remit taxes to the Canada Revenue Agency (CRA).

An employer who remits 'taxes' to the CRA but is not paying any wages to the employee is making a fraudulent report. You can file an anonymous complaint with the CRA, that is, you do not have to reveal

your name when you file this complaint. If your employer refuses to pay, then you may send him or her a 'Demand Letter' demanding the amount you are owed. We can help you draft one if you are unsure of the wording. If your employer still refuses to pay, you can file an employment standards complaint at the Employment Standards Branch within six months of the last day of employment. Please know that ESB complaints will not impact your immigration status. The department will help you recover money you are rightfully owed.

4. I lied on my initial work permit application about not having a spouse, but in reality, we were married when I moved to Canada. Now I want to sponsor my husband. What do I do?

It is important that caregivers and other migrant workers avoid misrepresentations on their immigration applications. Misrepresentation is directly or indirectly making false statements, lying, submitting false information or altered documents, or withholding important information on an application and in communications with Canadian immigration officials. According to this broad definition, your lie about your marital status on your work permit application is a misrepresentation which is grounds for inadmissibility. A finding of inadmissibility means that CIC has the right to deny you entry into Canada or the right to remain in Canada.

In the future, to avoid making a misrepresentation, you and your family members should always make full and honest disclosure on all your applications and communications with CIC.

5. My husband was divorced when we first got married. He has children with his first wife. Do I need to declare his first wife and their children in my PR application?

You and your family members should always make full and honest disclosure on all your applications and communications with CIC. You need to disclose that he has been divorced and declare your dependent children (whether adopted or biological), including your his dependent children (your step children) in your PR application.

6. I completed my 24 months requirement for the LCP and have filed for permanent residence. What do I do now?

As of December 2011, if you have completed your obligations under the Live-In Caregiver Program (LCP) program and have submitted an application for Permanent Residency (PR), you are eligible to receive an open work permit. You can apply for your open work permit with your PR application. The open work permit will allow you to seek jobs in other fields.

Please keep in mind that you **absolutely must file** an application for a work permit or open work permit if you plan to stay in Canada. Simply submitting a PR application does not give you status in Canada and lack of status for the duration of the processing can result in your PR application being denied.

Work permit application [IMM 5710] can be retrieved from the following URL:

<http://www.cic.gc.ca/english/pdf/kits/forms/IMM5710E.pdf>