

Employment Standards

Rights and responsibilities at work

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ONLINE: employment.alberta.ca/esfactsheets

Bankruptcies

March 2011

The federal *Bankruptcy and Insolvency Act (BIA)* sets out the rights and obligations of parties involved in bankruptcy or other insolvency proceedings.

Wage earner protection program

The federal Wage Earner Protection Program (WEPP) reimburses eligible workers for unpaid wages, vacation pay and termination pay they are owed when their employer declares bankruptcy or becomes subject to a receivership under the *BIA*. To be eligible, an employee must meet all of these criteria:

- your employment has ended;
- your former employer is declared bankrupt or is subject to a receivership; and
- you are owed eligible wages for the six month period ending on the date of the bankruptcy or receivership.

You may visit the Service Canada website at www.servicecanada.gc.ca/eng/sc/wepp/index.shtml or phone 1-866-683-6516 (toll-free) for additional information on WEPP.

For more information on receiverships, please see the “Receiverships” Fact Sheet at <http://employment.alberta.ca/esfactsheets>.

Bankruptcies and Employment Standards complaints

Employment Standards has no jurisdiction to act on behalf of an employee when an employer is in bankruptcy.

Complaints are not accepted by Employment Standards once an employer is in bankruptcy. An employee should contact Industry Canada – Office of the Superintendent of Bankruptcy to determine:

- whether a company has been placed into bankruptcy;
- the date of the bankruptcy; and
- the name of the appointed Bankruptcy Trustee (Trustee).

Edmonton

Phone 1-877-376-9902 (toll-free) / Fax 780-495-2466

Calgary

Phone 1-877-376-9902 (toll-free) / Fax 403-292-5188

To take action, employees must contact the Trustee to obtain, complete and return a “Proof of Claim” form.

It is important that employees of the bankrupt employer act quickly to ensure the Trustee is aware of their claims, as there are time limits imposed on creditors for proving their claims for outstanding monies.

An employer may enter bankruptcy during an Employment Standards complaint investigation. When this occurs and Employment Standards has received “Proof of Claim” forms from the Trustee, Employment Standards will forward a form to every employee who has filed a complaint. If possible, Employment Standards will inform each complainant of the amount owed and provide the employee with the name, address and telephone number of the Trustee.

Where the bankruptcy of an employer occurs after Employment Standards has completed an investigation and filed a judgment(s) against that employer, Employment Standards will forward copies of the outstanding judgments to the Trustee for consideration.

If no “Proof of Claim” forms have been received from the Trustee, Employment Standards will notify each complainant that it has lost jurisdiction and will provide information as to the amount owed to that complainant, if that amount has been determined.

Where a bankrupt employer hires new employees after the date of bankruptcy, Employment Standards will accept a complaint for investigation. This is because the liability for earnings arises after the bankruptcy. Therefore, the matter is outside the jurisdiction of the Trustee and the Trustee has no authority to consider the employee’s claim.

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