

Employment Standards

Rights and responsibilities at work

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Collecting an Employment Standards Judgment

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The Order of Officer (order) issued on your behalf against your former employer has been filed with the Court of Queen's Bench (Court) and has the same legal status as a judgment of that Court. As payment has not been received, there are several options available for you to try to collect the money owed to you. At any time, you may wish to obtain advice from a lawyer, collection agency or civil enforcement agency to assist you.

Role of Employment Standards

Unless advised that you are taking your own action, Employment Standards will undertake to collect the debt through the efforts of our Collections Unit or by referring the debt to a contracted collection agency.

Post-judgment collections unit

In addition to filing the order and Writ of Enforcement (Writ) with the Court, and registering the Writ with Personal Property Registry, Employment Standards will attempt collection from any known bank accounts or third party sources such as contract receivables. Additionally, a lien can be registered at Land Titles Registry against any known property.

Referral to a collection agency

Where the Employment Standards collections unit is unable to immediately collect the funds owed to you, and you have not taken your own steps to collect, the judgment together with a 25 per cent collection certificate based on the amount due to the employee will be referred to our contracted collection agency. The agency is provided with authorization to collect its fee from your employer. A referral to a collection agency will be made only if you consent.

Where the collection agency is successful in collecting all of the money now owed, the employee receives the employee amount specified on the order. The collection agency will retain a 19 per cent fee on the amount due to the employee and the government receives fees that are specified on the order.

Where the collection agency is able to collect only **part** of the money owing to the employee, the agency retains a 19 per cent fee on the amount collected. The remaining 81 per cent of funds are sent to the employee. Also, where the collection agency collects all or part of the Order of Officer fee, the agency retains 19 per cent fee of the amount collected. Only after the employee has received all money owing to him or her will any remainder go to pay the government fees.

Distribution of funds collected

The following example illustrates how money collected by the agency will be distributed.

Example

- Order states that the employee is owed \$1,000.
- Government fee is \$100 (10 per cent of the amount owed the employee or \$100, whichever is greater).
- Collection Certificate to the agency is \$250 (established rate of 25 per cent of the amount owed the employee).
- \$1,350 is the total amount to be collected by the agency.

Collection and distribution process

1. Order is issued to the employer for \$1,100 (\$1,000 plus \$100 government fee). The employer does not pay and the order is filed with the Court.
2. The filed order is submitted to the collection agency along with a certificate for \$250 (established rate of 25 per cent of the amount due to the employee).
3. The amount the collection agency is entitled to retain is 19 per cent of the amount collected.

Thus in our example

1. When the full amount of \$1,350 is collected, it will be distributed as follows:
 - Employee – \$1,000.
 - Agency – \$269 (\$250 fee assessed + \$19 as 19 per cent of the government fee).
 - Government – \$81 (government fee less the 19 per cent contracted collection fee).
 - Total – \$1,350.
2. When a partial amount is collected it will be distributed as follows:
 - Employee – 81 per cent of the amount collected where the maximum is the amount due to the employee.
 - Agency – 19 per cent of the amount collected.

- Government – amount collected less the amounts to the employee and agency.
 - a) If the agency collects \$1,000, the distribution will be as follows:
 - Employee – \$810 (81 per cent of \$1,000).
 - Agency – \$190 (19 per cent of \$1,000).
 - Government – \$0.
 - Total – \$1,000.
 - b) If the agency collects \$1,300, the distribution will be as follows:
 - Employee – \$1,000 (81 per cent of the amount collected where the maximum is the amount due to the employee, which is \$1,000).
 - Agency \$247 – \$237.50 (19 per cent of \$1250) + \$9.50 (19 per cent of \$50).
 - Government – \$53 (\$1,300 less the amounts to employee and agency).
 - Total – \$1,300.

Employee options to collect funds

You can refer the debt to a lawyer, collection agency or civil enforcement agency of your choice to commence collection action on your behalf.

If you know of assets belonging to your former employer, you can refer the debt to a civil enforcement agency. The seizure of assets involves several steps and there are costs involved. In some cases the agency may be able to recover those costs from your employer.

If you choose to refer the debt to a collection agency or civil enforcement agency, you must advise Employment Standards. Copies of the filed order, Writ and Personal Property Registry documents can then be forwarded to the agency to assist them in their efforts and to reduce the costs charged to you.

You can obtain the name of an agency providing services near you by looking in the Yellow Pages under Civil Enforcement Agencies or Collection Agencies.

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