

CONTRACT INTERPRETATION MANUAL

Article 56 PAYMENT OF WAGES

Interpretation Guidelines

Employers must pay employee's wages in accordance with:

1. The wage schedule classifications set out in Article 62; and
2. The wage schedules in Article 63.

Employers are required to pay employees on the shifts specified either by cheque or direct deposit (Article 56).

The Employer has the right to require all employees to participate in a direct deposit system. Where the Employer uses direct deposit, they are not required to provide paper cheques to individual employees who decline to participate in the direct deposit system.

Employers are required to provide a wage statement containing all the information set out in Article 56.04.

Where a direct deposit system is used, the Employer can choose to provide the wage statement through electronic means rather than a paper copy. The following requirements apply:

1. The Employer must ensure the information on the wage statements is transmitted in a secure manner in keeping with the requirements of the Freedom of Information and Protection of Privacy Act of B.C. (FIPPA);
2. The Employer is required to provide information to employees on how to access their wage statements; and
3. Employees who are away from the worksite for two or more consecutive pay periods may request in writing to have a paper wage statement mailed to their home.

Employers are prohibited from making unilateral deductions for overpayments from an employee's pay cheque. If an overpayment is made on your pay cheque by the Employer, the Employer cannot unilaterally withhold payment of that amount on your next pay cheque.

1. The purpose of the Employment Standards Act is to ensure that employees receive the full measure of wages to which they are entitled and Section 21 safeguards this purpose by restricting the circumstances in which an Employer may deduct monies from an employee's pay. Section 21 says "an employer must not, directly or indirectly, withhold, deduct or require payment of all or part of an employee's wages for any purpose".
2. Employees should contact a Steward in the event the Employer is requesting any repayment.

This restriction on an Employer's common law rights and equitable claims against its employee's wages was confirmed by Vancouver Hospital and Health Sciences Centre and BCNU, (GAD), December 16, 2002 (Gordon) and was later upheld by the Court of Appeal for British Columbia, June 23, 2005 (Chief Justice Finch, Madame Justice Ryan, Mr. Justice Braidwood, Mr. Justice McKenzie and Mr. Justice Thackray). The key points of the original arbitration decision are:

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1. Section 21 of the Employment Standards Act prohibits Employer self-help and places the onus of establishing legal authority on the Employer before the recovery of any alleged overpayment of wages;
2. In order to establish legal authority to recover overpayments, the Employer must find authority in a statute, the provisions of the collective agreement, or the consent of the affected employee;
3. An Employer who has a monetary claim must provide proof of that claim; and
4. If the Employer reaches the conclusion it has overpaid an employee's wages in error, the Employer may file a grievance under the collective agreement. The grievance procedure provides the opportunity for disclosure and discussion of the merits of the Employer's claim along with an effective forum for the informal resolution of disputes prior to the referral to arbitration.

Strike pay is not considered taxable income even if you perform picketing duty as a requirement of membership.

Arbitration Awards

1. HEABC (Vancouver Hospital and Health Sciences Centre) and BCNU (GAD), December 16, 2002 (Gordon). Employers are prohibited from unilaterally deducting overpayments from an employee's pay cheque.

Court of Appeal of British Columbia

1. HEABC (Vancouver Hospital and Health Sciences Centre) and BCNU, June 23, 2005 (Chief Justice Finch, Madame Justice Ryan, Mr. Justice Braidwood, Mr. Justice McKenzie and Mr. Justice Thackray). The Court unanimously upheld the above noted decision.

Additional Resources

Legislation

1. Employment Standards Act Section 21. www.gp.gov.bc.ca/statreg/reg/E/EmployStand/396_95.htm
2. Freedom of Information and Protection of Privacy Act of B.C. (FIPPA). www.oipcbc.org

Footnotes

Article	56
Sub-Article	56.01, 56.02, 56.03, 56.04
Last Update	31-03-21
Related Articles	45, 62, 63