

Know your Rights: Domestic Workers in Washington State



What Will I Learn from This Memo?

In this memo we give basic answers to common questions about domestic workers' rights in Washington State, including: wages and working conditions; labor unions; housing rights; workers compensation; property damage; and resources.

No matter what, know that you have rights. Your employer cannot:

- Take away your personal property or documents;
- Hit you, threaten you, nor abuse you in any way;
- Sexually harass or assault you in any way;
- Withhold your pay; nor
- Do anything else that violates your civil rights as a person living and working in this country.

What Kind of Work Is Domestic Work?

Domestic work includes a range of services to support and maintain a household. Services can include caring for family members (children, the elderly, people with disabilities, and people who are ill); housekeeping; cooking; shopping and errands; laundry; gardening; and other in-home work. Domestic workers can be hired directly by the person or family they serve, or work through a business or agency. Domestic workers can also be hired by a condominium association to provide certain services to all residents and maintain the grounds. Similar services provided by staff in hotels, motels, resorts, etc. – called the “hospitality industry” – is not considered domestic work.

When Does Domestic Work Become Slavery (Trafficking)?

A domestic work situation becomes trafficking when the employer uses force, fraud (lies,) or coercion (threats) to maintain control over the worker and to make the worker believe that there is no other choice but to stay with the employer. For more information, see the National Human Trafficking Resource Center listed under “[General Resources](#)” in the Resources section below.

WAGES and WORKING CONDITIONS

Do I Have a Right to Be Paid Minimum Wage?

Most domestic workers in Washington State have this right. However, if you work for an employer only once or once in a while, if you are younger than 18-years-old, or if you live where you work, you usually do not have the right to be paid minimum wage. For more information, see the publications from the Northwest Justice Project listed under “Wages” in the Resources section below.

What Is the Minimum Wage?

For the current minimum wage, check the Washington state labor website: www.lni.wa.gov/workplacerrights/wages/minimum/. In 2016, the Washington minimum wage is \$9.47 per hour.

The City of Seattle is in the process of increasing its minimum wage for many workers in the city. Most domestic workers’ wages will not be affected. However, this may change when the rules for the new minimum wage are written. For more information, see listings under “Wages” in the Resources section below.

Do I Have the Right to Take a Break During Work Hours?

Probably not. Most employers of domestic workers do not have to give their employees breaks. Domestic workers fall under an exception in Washington law that gives most other workers the right to breaks during work.

Do I Have the Right to Overtime Pay?

Maybe. If you are working more than 40 hours in a 7-day work period for the same employer, you may get overtime pay (overtime pay is 150% of your current pay.) You or your employer can also negotiate for time off instead of overtime pay. If you live with your employer, however, then you do not qualify for overtime pay (certain employees of Medicaid Shared Living Programs do qualify for overtime pay). Also, if you work occasionally as a babysitter; if you are providing limited companionship care to someone who cannot care for themselves; or if your overtime work is spread out over multiple employers, you do not qualify for overtime pay. See the question “Will the New Federal Rules on Companionship Care Impact Me?” below to learn more about what kind of companionship-care work qualifies for overtime pay.

The National Domestic Workers Alliance is working on increasing protections for all domestic workers, including overtime pay. See listings under “[General Resources](#)” in the Resource section below.

Do I Have to Work More Than 60 Hours a Week?

State law protects you from having to work more than 60 hours a week unless there is an emergency requiring you work the extra time. ([RCW 49.28.080](#)) The law does not define what qualifies as an emergency.

Will the New Federal Rules on Companionship Care Impact Me?

Maybe. New federal rules – which went into effect January 1, 2015 – are supposed to help domestic workers who provide companionship care to the ill or elderly (some other words used to describe this kind of work are direct care workers, home care workers, personal care aides, caregivers and companions). Employers must now keep track of their domestic workers’ hours and activities to show whether or not their domestic workers qualify for minimum wage and overtime pay. These rules are a part of the Fair Labor Standards Act (FLSA.)

For a full summary of the new rules, fact sheets, frequently asked questions about domestic workers’ rights, and to find out if the rules apply to you, see the U.S. Department of Labor’s Home Care webpage listed under “[General Resources](#)” in the Resources section below. For a state-by-state summary of companionship care rules, see the National Employment Law Project, also listed under “[General Resources](#)” in the Resources section below.

Should I Have a Written Employment Contract?

You can be a domestic worker without an official employment contract. However, having at least a written agreement with your employer is a good idea. An “agreement” is not the same as a “contract.” For example, you cannot sue your employer for not following a written agreement. But a written agreement can help set expectations about hours, wages, vacation, sick time, etc. Some sample work agreements can be found on the Domestic Employers Network webpage, listed under “[General Resources](#)” in the Resources section below.

Do I Have the Right to Sick or Vacation Time?

No, most domestic workers do not have the right to sick or vacation time. The only ones who might get sick and vacation time are domestic workers who are members of a union.

Talk with your employer about what to do when you are sick, when someone in your family is sick and needs you, or you need time off for another reason.

If I Care for Children as Part of My Household Duties, Do I Have the Right to Refuse to Care for the Children When They Are Sick?

No. Usually, an employer can fire you for not working, even if you have a good reason for not working. If you have a written agreement or contract with your employer you should review it to see if it includes what to do if the children are sick, and whether or not you can ask to not care for sick children. Even if you do not have a written employment contract or agreement, it is a good idea to talk to your employer about what to do when their children are sick, when you are sick, or when your own children are sick.

LABOR UNIONS

As a Domestic Worker, Do I Have the Right to Organize a Labor Union with Other Domestic Workers?

It depends on your employer. If you work for a person or family, you do not have the right to organize or join a labor union. However, if you work for a commercial entity, such as a condominium association, to provide household services, then you do have the right to organize or join a labor union and bargain collectively for better wages and working conditions.

HOUSING RIGHTS for LIVE-IN DOMESTIC WORKERS

Do I Have to Pay Rent?

It depends on the arrangement you have with your employer. If your housing is part of your pay, then you do not have to pay rent. If you have no set move-out date, this is called “tenancy at-will.” You can leave at any time, and your employer can make you leave at any time. You do not have many rights in this type of housing situation.

If you signed a lease, you must pay the rent that is listed in your lease. This type of housing situation will give you more rights. For more information, see listings under “Housing Rights” in Resources below.

Do I Have the Right To Certain Living Conditions?

Yes. Your employer must maintain safe housing for you and anyone else living with you. This means that your employer must:

- keep everything sanitary and safe;
- be responsible for pest control and waste management;
- maintain heat and hot water; and
- maintain fire safety equipment.

See listings under “Housing Rights” in Resources below.

Can I Move at any Time? Will I Have to Pay Anything if I Choose to Move?

If your housing is part of your pay, you can leave at any time without owing any money. However, this also means that your employer can ask you to leave the housing at any time, though you must be given reasonable time to move your belongings.

If you pay monthly rent, then you have to follow certain rules before you can move out, or the landlord can sue you for money. If you signed a rental agreement with your employer for a definite period of time, such as a year, you have to remain in the housing for the whole lease term or you may lose money. For more information about your housing rights, see the listings under “Housing Rights” in the Resources section below.

Can I Be Forced to Move If My Employer Fires Me?

Maybe. If you live with your employer and your housing is part of your pay, you can be asked to move out (evicted) when your job ends. If you do not move out when asked, the employer can go to court to have you removed from the home.

If you have a lease for housing with your employer, then your employer must honor that lease and follow housing laws. Usually, this means you can stay in the house even if you no longer work for the employer. Your employer can evict you for other reasons, however. See listings under “Housing Rights” in Resources below.

WORKERS’ COMPENSATION

Can I Get Money from State Workers’ Compensation If I Am Injured at Work?

Some domestic workers will be able to get workers’ compensation if they are hurt, but many will not. If you work in a single private home doing household duties, like cleaning

or childcare, you will probably not be able to get workers' compensation if you are hurt while working. If the household employs two or more employees, each working at least 40 hours per week, then the domestic workers can get workers' compensation.

If I Cannot Get Workers' Compensation, What Should I Do?

You should try to work it out with your employer by letting them know right away that you are injured. Many household employers have homeowner's insurance that might help pay for your medical and other expenses, and some employers may do the right thing and help you.

If the employer will not help you, you have the right to sue your employer for money to help you pay your medical bills and other damages. If that amount is less than \$5,000, you can take your employer to small claims court. See listings under "Small Claims Court" in Resources below for more information.

Can I Get Workers' Compensation If I Am Paid Under the Table?

Yes, *unless* you are the kind of worker that is not covered by the workers' compensation law. See the first question under the heading WORKERS' COMPENSATION above for information about what kind of domestic workers can get workers' compensation.

Can I Get Workers' Compensation Even If I Am an Undocumented Immigrant?

Yes. The state Labor & Industries (L&I) program will not ask about immigration status, and status does not matter when asking for these benefits. However, your employer can tell the federal ICE agency about your status. ICE may then investigate, detain, and deport you. Find L&I information under "Workplace Injuries and Workers' Compensation" in Resources below.

PROPERTY DAMAGE

If I Break Something in a Home Where I Am Working, What Should I Do?

If you break something in your employer's home, it is a good idea to write down exactly what happened and tell your employer what happened as soon as you can. Talk with your employer about what should be done about the damage.

Can the Employer Take Money for the Damage Out of My Pay?

No, your employer cannot withhold your wages or your paycheck. If this happens to you, you may contact Casa Latina for help getting your wages. Contact information is listed under “Wages” in Resources below.

The employer could fire you, but might not. Many homeowners have insurance that covers the cost of damages in their home, so your employer can have the damaged property replaced through the insurance policy.

Your employer and/or the owner of the damaged property could try to take you to court to make you pay for it. If the property is worth less than \$5,000, the owner would probably take you to small claims court. See “Small Claims Court” listings in Resources below.

Resources

General Resources

- The Domestic Employers Network: Sample work agreements.
Online: <http://domesticemployers.org/sample-work-agreements/>
- Legal Voice: Other employment-related publications available online.
Online: www.legalvoice.org/#!tools-employment/cgzs
- The National Domestic Workers Alliance
Online: www.domesticworkers.org
- The National Employment Law Project
Online: www.nelp.org/page/content/state_chart_companionship
- National Human Trafficking Resource Center
Online: <http://traffickingresourcecenter.org/type-trafficking/labor-trafficking>
By phone: 1-888-373-7888
- U.S. Department of Labor: Information for home-care workers, including tools to figure out if you qualify for minimum wage and overtime pay. (Limited information in the Spanish language. Click “Español” at upper right.)
Online: www.dol.gov/whd/homecare/workers.htm
By phone: 1-866-487-9243: information and helpline, available 8 a.m. to 5 p.m.

Housing Rights

- Northwest Justice Project: Offers free publications on a variety of legal topics.
Online: www.WashingtonLawHelp.org/issues/housing
Click “Tennant’s rights” for:
 - [*Your Rights as a Tenant in Washington State*](#)Click “Eviction” for:
 - [*Eviction and Your Defense*](#)
- Tenants Union: Know-your-rights information for tenants.
Online: www.tenantsunion.org/en/rights

Small Claims Court

- Search online for information about your county’s Small Claims Court. Some links provided here:
 - King: www.kingcounty.gov/courts/DistrictCourt/SmallClaims.aspx
 - Pierce: www.co.pierce.wa.us/index.aspx?nid=823
 - Skagit: www.skagitcounty.net/Departments/DistrictCourt/smallclaims.htm
 - Snohomish: <http://snohomishcountywa.gov/537/Small-Claims>
 - Spokane: www.spokanecounty.org/districtcourt/content.aspx?c=1934
 - Walla Walla: www.co.walla-walla.wa.us/departments/dco/SmallClaims.shtml
 - Yakima: www.yakimacounty.us/DistrictCourt/10_SmallClaims_How.htm
- Tenants Union: Information on how to use small claims court.
Online: www.tenantsunion.org/en/rights/section/small-claims-court
- Northwest Justice Project: Offers free publications on a wide variety of legal topics.
Online: www.WashingtonLawHelp.org/issues/consumer-debt/small-claims-court
 - [*Small Claims Court in Washington State*](#)

Wages

- Casa Latina: Worker’s Defense Committee helps workers claim wages and follow up on complaints to Labor & Industries.
Online: <http://casa-latina.org>
By phone: 206-956-0779 ext. 123
- Northwest Justice Project: Offers free publications on a wide variety of legal topics.
Online: www.WashingtonLawHelp.org/issues/employment-farm-worker-rights/wage-claims
 - [*How to Enforce Your Right to Receive Minimum Wage*](#)

- [*Are You Owed Wages? How the Law and L & I Can Help You Get Wages Your Employer Owes You*](#)
- Seattle Office of Labor Standards: Offers fact sheets and questions & answers on the minimum wage ordinance.
Online: www.seattle.gov/laborstandards/ordinances/minimum-wage

Workplace Injuries and Workers' Compensation

- Northwest Justice Project: Offers free publications on a wide variety of legal topics.
Online: www.WashingtonLawHelp.org/issues/employment-farm-worker-rights/workers-compensation
 - [*Work Injuries and Your Rights*](#)
 - [*Workers' Rights to Workers' Compensation Benefits*](#)
- Washington State Labor & Industries (L&I): L&I has many offices statewide. You may file a complaint at any one. For the office nearest you, call:
By phone: 1-800-547-8367; (TTY) 360-902-4685
Online: www.lni.wa.gov/claimsins/claims/

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of February 2015.

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