



My Old Job Owes Me Money: Wage Claims

What's a wage claim?

If you left or lost your job and were not paid all of your wages, you can make a “wage claim” against your employer. If you are a construction worker, you can make a wage claim against the contractor or subcontractor – or both. If you were a migrant agricultural worker, you have the right to stay in your employer-provided housing until you are paid your final wages. You can get all the money that you earned before you stopped work, even if you left on bad terms. You may be able to get more money as a penalty if your employer did not follow the law about paying your wages after you stopped work.

Minnesota law has steps to follow to make a wage claim. If you were an independent contractor or had a written job contract, the rules may be different. Read your personnel policy manual or contract. Not all policies or contracts are legal, so call a lawyer if you have questions. This fact sheet is for employees not independent contractors.

See our fact sheet [Job Status and Your Rights](#) if you are not sure.

What are wages?

Wages include your hourly pay, overtime, and/or salary. Wages may also include bonuses and commissions that you earned before you lost your job. Wages may also sometimes include paid time off (PTO) that you earned during your job. Employers don't have to pay out your earned sick and safe time (ESST), but some employers choose to. Make sure you look at any employment handbooks, job contracts or agreements about how you earn and how you can use your PTO and ESST.

How soon must they pay me?

- If you were **fired or laid-off**, Minnesota law says that you must be paid within 24 hours after you ask for it. You have to **ask in writing** to be paid within 24 hours. Otherwise, you get paid at your next scheduled paycheck.
- If you **quit or resigned**, you must be paid on or by the next regular payday unless it is less than 5 days away. Then they can wait until the second payday. You **must** be paid within 20 days of your last day.



The money must be paid at the place you usually got your checks unless you ask them to mail your last check.

There are some exceptions:

- If you are a migrant worker, you must be paid within 3 days if you quit. If you are fired or laid-off, the rules are the same as above- they have to pay you within 24 hours of asking for it.
- If you are in a union with a collective bargaining agreement, there may be different rules.
- If your employer or contractor files for bankruptcy before you are paid, file your claim in bankruptcy court. There are 4 bankruptcy courts in Minnesota, and you can put your name on the list of people needing to be paid.

Bankruptcy court usually puts wage claims before most other claims. This means you may still get paid even if it seems that the employer doesn't have any money. Be sure to make your wage claim!

- If you handled money or property at your job, the employer can take 10 days after your last work day to check your accounts before you are paid.

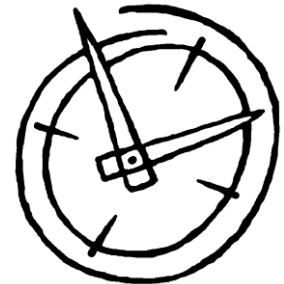
Generally, employers **cannot** take money out of your paycheck for work property that is lost, stolen or damaged. They **can**, if you agree to it in writing **after** the loss or damage happened, or if a court decides you are to blame.

How do I make a wage claim?

Ask for your unpaid wages as soon as possible after you leave your job. This is called making a demand for wages. **Your demand must be in writing** but doesn't need to say the amount owed.

There is a sample wage demand letter with this fact sheet. Write it in your own words, sign, and date your letter. Keep a copy. Ask the employer or contractor to pay you all of your unpaid wages and commissions right away.

For more information or help to file a wage claim
Contact the MN Department of Labor and Industry (DLI) at
dli.laborstandards@state.mn.us or call them at 651-284-5075 or 800-342-5354.



What if they don't pay me on time?

You are considered paid as of the date they hand you the check or as of the postmark date on the envelope if they mailed your last check.

If your wages are not paid *within 24 hours* after you demand them, and the timeline to pay has passed (see above - How Soon Must They Pay Me?), state law lets you collect a penalty of one day's pay for every day the employer is late in paying you. Up to 15 days total.

To figure the amount of the penalty, first find out your average daily earnings. To do this, divide your pay by the number of workdays in the pay period. Then count how many days the employer was late with your money (up to 15 days). Multiply those 2 numbers for the total penalty the employer owes you.

Here is one example of how the penalty might be figured out:

Toni was fired from her job on June 10th. Because she was fired, the employer was supposed to mail her check within 24 hours of her demand for payment. She worked 5 days per week and was paid every 2 weeks. Her usual paycheck was \$875.00. She made her demand for wages on June 12th. Her employer mailed the check on June 20th.

→ To figure out the penalty, you need to know Toni's average daily pay. First you need to figure out how many days are in Toni's pay period.

$5 \text{ work days} \times 2 \text{ weeks in the pay period} = 10 \text{ days per pay period}$

→ Next, you figure out Toni's average daily pay by dividing her paycheck amount by the number of days in her pay period:

$\$875.00 \div 10 = \87.50 . So, Toni's average daily pay is \$87.50.

→ Then figure out how many days it took her employer to pay her.

$\text{June 20 (pay date)} - \text{June 13 (demand due date)} = 7 \text{ days}$

The penalty is:

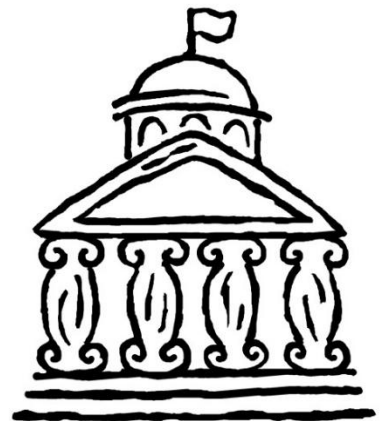
$\$87.50 \text{ (average daily pay)} \times 7 \text{ (number of days late)} = \612.50

If they don't pay me, can I sue?

Most employers do pay wages and commissions on time. If yours does not, you may need to sue them. Sue for both the wages owed and the penalty for not paying on time.

If the wages plus the penalty total \$20,000 or less, you can sue in Conciliation Court. You do not need a lawyer. If the amount is more than \$20,000, you should get a lawyer because you need to file your case in District Court.

If the employer makes you a formal offer of judgment, think twice before you sue. If you go to court and the court decides the employer only has to pay you what you were offered or less, you may have to pay the employer's legal costs. But, if they decide you should get more than your employer offered, the employer may have to pay your legal costs.



How soon must I sue?

You must sue within **2 years** of the day you did not get your pay. This might be your last day of work, or it might be before, if you did not get paid for a while before you stopped working. The statute of limitations to sue is 2 years from the date each check was supposed to be paid to you. Start your lawsuit as soon as possible to avoid losing evidence or witnesses.

For More Info

For more information on Minnesota laws on wage claims, wage theft, overtime, and child labor, call the Minnesota Department of Labor and Industry at (651) 284-5070 or 1-(800) 342-5354 or go online to www.dli.mn.gov.



Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

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Here is an example of a wage demand letter. It is important that you keep a copy of the signed letter. You should also make note of the date you send the letter. It is a good idea to send it by certified mail or ask at the post office about confirmation of delivery. That way you have proof it was sent, where it was sent and on what day.

Date: _____

(Write your employer's name and address in this space)

Re: Wage Demand, Request for Employment File and Reason for Termination

Dear (Employer's name):

Please send me a copy of my complete employment file as well as the reason for my termination. Additionally, I am requesting all outstanding wages due and owing pursuant to Minnesota law to be sent to me within 24 hours from this demand. If I do not receive my wages, I will pursue all statutory penalties available for nonpayment of wages.

Please send the requested information and wages to me at the following address:

(clearly print your name and address)

Sincerely,

(Your signature)