# Do Terminated Employees Qualify for Stat Holiday Pay?



One of the bedrock rights of employment standards laws is the employee's entitlement to get paid for statutory holidays they don't work. Of course, this entitlement ends when the employee leaves the company. Or does it? Consider the following scenario.

## Situation

A student at a local university gets a summer job at a nearby factory. He starts work on May 1 and works 8 hours a day for 5 days a week over a period of 4 months, earning $20 per hour. Overall, he earns $3,200 for 160 hours over 4 months, a rate of $160 per day. His last day of work is Friday, August 30. The Labour Day stat holiday falls on the following Monday, September 2. He leaves on good terms and would have been allowed to keep working had he not returned to school.

## Question

**To how much, if any, stat holiday pay is the student entitled for Labour Day?**

1. $0, because he was no longer an employee on Labour Day.
2. $0, because he didn't work his first regularly scheduled day after Labour Day.
3. $160, representing holiday pay at the statutory rate for a stat holiday day not worked.
4. $240, representing 8 hours at time-and-a-half.

## Answer

1. **The plant must pay the student stat holiday wages of $160 for Labour Day even though he wasn't employed by the plant when the holiday took place.**

## Explanation

**Basic Rule:** Under employment standards laws, employees who work a specific minimum period—typically 4 weeks—accrue the right to pay for the next stat holiday pay that occurs after that period ends. This may be true even if the stat holiday falls after they leave the company (which may be subject to conditions that we'll discuss below). The student in this scenario had worked full-time for 4 consecutive months, enough to accrue holiday pay in just about any province. So, he'd be entitled to holiday pay

for Labour Day even though it occurred after his last day of employment with the company. Therefore, C is the right answer.

## Why Wrong Answers Are Wrong

**A is wrong** because the right to stat holiday pay is based on previous service, not current employment status. Moreover, the definition of “employee” under the employment standards laws of many provinces, including AB, MB, and ON, include a former employee. This ensures that people don’t lose the rights they’ve accrued simply because they cease working for the employer. Without this protection, former employees wouldn’t be able to recover unpaid wages from their previous companies.

**B is wrong** even though under some employment standards laws eligibility for stat holiday pay requires not only that employees have the 4-week or other minimum amount of service but also work the “regular scheduled day” immediately before and after the holiday. The student in this scenario worked on the Friday before but not the Tuesday after Labour Day. But that Tuesday wasn’t a regular scheduled workday for the student since he was no longer employed by the company when it occurred. So, the student still qualifies for Labour Day pay.

**D is wrong** because the student didn’t work on Labour Day and the stat holiday pay rate for holidays not worked is either regular wages for the day or based on a formula set out in the employment standards law. For example, in Ontario, the rate for stat holidays not worked is regular earnings over the prior 4 weeks divided by 20 (in the student’s case, $3,200 ÷ 20 = $160—which happens to be the student’s regular rate for a full day’s work). Time-and-a-half is generally the rate when the employee actually works the holiday, which isn’t the case in this scenario.