

# Internship Enforcement Update



In the second quarter of 2014, the Ministry of Labour conducted an enforcement “blitz,” targeting companies in several sectors with intern programs to determine if those programs were being operated in a manner consistent with the **Employment Standards Act**.

A quick refresher: the vast majority of people who perform work in the province of Ontario are subject to the **Employment Standards Act**. The Act sets out various minimum entitlements for those workers, most notably the minimum wage. Internships, as a general rule, must be paid unless they fall within one of several well-defined but narrow exceptions.

Out of 56 businesses in the GTA inspected during the blitz, 37 compliance orders were issued. Compliance orders indicate that in the eyes of the Ministry there was at least one violation of the Act that required correcting. As well as issuing compliance orders, the Ministry demanded that the businesses pay out over \$48,000 in back pay. All but one of the employers paid their employees according to the Ministry’s instructions. The final employer was subject to an order to pay the outstanding amount.

Interestingly, of the companies that had active intern programs at the time of the blitz, 13 were exempt from the law, five were legally compliant, and 13 were in breach of the Act. If that proportion of non-compliance is common to intern programs across the province, then employers could be liable for a sizable amount in back pay and wages.

There is no indication that the Ministry intends to change its enforcement stance on unpaid internships. Indeed, the recent attention paid to this area without any corresponding legislative changes could mean the new found gusto for enforcement may be permanent.

Employers who have internship programs must be wary of the state of the law, and ensure that their program meets the minimum requirements set out in the Act or qualifies for an exception. The exceptions to the requirements to pay workers minimum wages are limited and circumscribed. If an employer intends to rely on such an exception, they must be active about monitoring the law and the conditions of the workplace, as a failure to meet the requirements of the exception could give rise to a claim for unpaid wages the length of the internship, as well as other potential consequences.

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