

The ROE is a Crucial Payroll Document That Can be Confusing to Complete

written by vickyp | March 4, 2021



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Employers may brush off the importance of a Record of Employment (ROE) or even have their accountant handle all the details, but it is an important document in the realm of employment law. This document becomes significant when it comes to topics such as terminations, lay-offs, resignations, disability, illness, quarantine, a leave of absence and maternity or parental leaves. So here are the top 6 things that every employer should know when it comes to a Record of Employment.

Firstly, what is an ROE?

An ROE is a form that employers complete for employees who are receiving insurable earnings who have stopped working and are experiencing an interruption of earnings. This document is a requirement of the Employment Insurance Program. An ROE must be completed even if the employee is not applying for Employment Insurance Benefits.

The ROE contains information regarding the employee's work history, insurable earnings and insurable hours and is available in both electronic and paper format. It also contains a [code](#) which identifies the reason for issuing the ROE, for example, that the employee has been laid off or is on a parental leave.

The Difference between an Electronic and Paper ROE

While there are two different formats available, an employer is only required to submit one format.

Electronic ROE

This ROE is submitted to Service Canada electronically.

- It can be submitted to ROE Web by using compatible payroll software.
- It can be submitted through the Service Canada website.
- Or it can also be submitted through a Secure Automated Transfer (SAT), which is performed on your behalf by a payroll service provider by using bulk transfer technology.

Paper ROE

The paper ROE is a one-page form with three copies. The first page is the original, while the second and third pages are carbon copies.

- The first page belongs to the employee, who will use this copy to apply for EI benefits.
- The second page is a blue copy, which must be sent to Service Canada.
- The employer should keep the third page for their own records.

Deadlines for Issuing ROEs

- If the ROE is issued on paper, you must issue an ROE within five calendar days of the first day of an interruption of earnings or the day the employer becomes aware of an interruption of earnings.
- If the ROE is issued electronically and your pay period is weekly, biweekly, or semi-monthly, you have up to five calendar days after the end of the pay period in which an employee's interruption of earnings occurs to issue the ROE.
- If you have a monthly pay period or 13 pay periods per year, the employer must issue electronic ROEs by whichever date is earlier: either five calendar days after the end of the pay period in which an employee experiences an interruption of earnings or 15 calendar days after the first day in the interruption of earnings.

Amending an ROE

An employer can amend an ROE if they need to change, correct or update the information that was entered on a previously issued ROE. When amending an ROE, ensure to complete all of the blocks on the amended ROE and not just the blocks where information has changed from the original ROE.

Paper Form

- Use a blank ROE form and in Block 2, enter the serial number of the original ROE you are correcting.

Electronic

- If you are using ROE Web you may consult the online help instructions within the ROE Web application or call the Employer Contact Centre at 1-800-367-5693 (TTY: 1-855-881-9874).
- If you are using ROE SAT, contact your payroll service provider.
- If you are amending a paper ROE electronically, enter "Amending a paper ROE" in Block 18, Comments, and include the serial number of the original paper ROE.

Insurable Earnings and Insurable Hours

The term "Insurable Earnings" refers to the different types of compensation that an employer provides to their employees on which the EI premiums are paid. [The Canada Revenue Agency](#) dictates what types of earnings and hours are [insurable](#).

What does Service Canada do with the ROE?

Service Canada will use the information provided on the ROE to establish whether an employee who has experienced an interruption of earnings is eligible to receive EI benefits. They will determine what the benefit amount will be and how long the employee will be eligible to receive those benefits. Service Canada will also use the ROE to ensure that EI funds are not being misused!

For more information on ROE's, you can call Service Canada's Employer Contact Centre at 1-800-367-5693.

If you're puzzling through an employment issue and aren't sure what to do, we can

help! [Get in touch](#) for a consultation.

The Covid-19 pandemic has changed our economy. In many industries, it has made it more difficult to find work and also more difficult for businesses to afford termination packages when letting employees go. The relevance of these facts to how courts will determine what terminated employees are entitled to has, so far, been unclear.

Reasonable Notice

When an employment relationship is not governed by a written contract – with valid termination provisions – a terminated employee’s entitlements on termination without cause will be determined by the common law and what is called reasonable notice.

Courts determine reasonable notice by looking at the following factors:

- Length of service
- Character of employment
- Age of the employee
- Availability of similar employment

Notice that “the employer’s ability to pay” is not a normal consideration when determining an employee’s entitlement to a common law termination package.

Courts considering the impact of economic downturns on notice periods in the past have generally found that employees terminated in poor economic conditions will be entitled to longer periods of reasonable notice.

A Ruling on the Impact of Covid-19 on Notice Periods

In late January, the Ontario Superior Court released a decision, [Yee v Hudson’s Bay Company](#), 2021 ONSC 387, following a virtual trial, of Melvin Yee, a 62-year-old terminated from Hudson’s Bay Company. Mr. Yee was terminated in August 2019 but had difficulty finding new employment due to the pandemic. His evidence was that he had sent out 90 + job applications since his termination. Mr. Yee remained unemployed at the time of the trial. His claim was for an 18-month notice period. Also notable, was that Mr. Yee was a high-earning employee, with total compensation of approximately \$190,000 per year. He worked for Hudson’s Bay for 11.5 years.

While no doubt Mr. Yee may have been hampered in his search efforts by COVID-19, the trial judge declined to take this into consideration, relying on the Ontario Court of Appeal’s decision in *Holland v Hostopia.com Inc.*, which states: “Notice is to be determined by the circumstances existing at the time of termination and not by the amount of time that it takes the employee to find employment”.

Because Mr. Yee was terminated before the pandemic, the judge ruled the pandemic would have no impact on his notice entitlement.

This ruling suggests that employees terminated during the pandemic will be entitled to have their notice period increased due to the pandemic circumstances that existed at the time of their terminations.

In the end, Mr. Yee was awarded 16 months of notice.

Takeaways

This first glimpse into how the pandemic will influence notice periods suggests that for terminations happening during the pandemic notice periods will be higher than

they might otherwise have been. At least in industries that have been negatively impacted.

One way for employers to ensure that they have certainty about termination entitlements – and avoid litigation – is by having valid employment contracts. Employment law does change fast so we suggest having your employment contracts reviewed frequently to ensure they are still up to date.



By Gaya Murtri, SpringLaw

Gaya is a licensed paralegal with a background in criminology and social work. Prior to joining SpringLaw, Gaya worked in criminal law and medical malpractice. She seamlessly navigates both the court systems and our rapidly changing litigation and court policies and procedures. Gaya will take the lead on litigation support, eDiscovery and further digitalizing our growing litigation practice. Gaya also supports our clients with legal research, drafting legal documents, filing and serving documents and ensuring that legal matters continue moving forward until resolution.

Gaya is a firm believer that it is our duty as advocates to ensure access to justice. A big part of this is providing knowledge, services, and resources to clients to ensure that they can deal with their legal matters appropriately. She understands how daunting it can be for clients to face the legal system, especially during a difficult time. Basically, Gaya is a compassionate and super nice person who makes our clients feel at ease in the midst of very stressful litigation moments.

With what is almost becoming a job requirement to work at SpringLaw, Gaya is passionate about animal rights and has two small dogs that she absolutely adores. When she is not working or trying to rescue a stray dog, she can usually be found cooking up a storm in the kitchen and trying out new recipes.