

What Sick Leave Rights Do Employees Have?



Here's a briefing so you'll be prepared no matter where in Canada you operate. Go to the HR Insider website for a complete [Sick Leave Compliance Game Plan](#).

Federal

Under the *Canada Labour Code*, employees get 27 weeks of unpaid medical leave for personal illness, which may be taken in units of a day or more. Employees with at least 30 days of continuous service get 3 days of paid leave per year, which increases by 1 day for each subsequent month worked up to a maximum of 10 paid days per year. Paid days are payable at the regular wage rate, unless the employee works on an hourly or other than time basis, in which case you calculate sick day pay by averaging daily earnings, not counting overtime, for the 20 days the employee worked immediately before the first day of the paid leave period. One more thing: You can ask for a medical certificate as long as:

- The absence lasted 5 or more consecutive days.
- You put the request in writing.
- You make the request within 15 days after the employee returns.

Alberta

Employees with at least 90 days of service get up to 5 unpaid days of personal leave per calendar year if they get sick or need to care for a designated family member that gets sick. Employees are supposed to give employers notice as soon as reasonably possible and it's unclear whether you're allowed to ask for a doctor's note. Sick employees might also qualify for 16 weeks of long-term illness or injury leave, which is also unpaid and requires medical verification.

British Columbia

Employees with at least 90 consecutive days' service get up to 8 days of personal illness or injury leave, the first 5 of which are paid. To calculate paid leave due, you multiply the leave period x average day's pay using the formula:

amount paid ÷ days worked

Where: **amount paid** = the amount paid or payable to the employee for work done during and wages earned within the 30-calendar day period before the leave, including vacation pay paid or payable for vacation days taken within that period, less any

amounts paid or payable for overtime; and **days worked** = the number of days the employee worked or earned wages within that 30-calendar day period. You can request medical verification of entitlement to leave.

Manitoba

Employees with at least 30 days' employment get up to 3 unpaid days of family responsibility leave if they can't work due to an illness to themselves or a family member to whom they owe a family responsibility.

New Brunswick

Employees with at least 90 days of employment get up to 5 unpaid days of sick leave per year. You can require a doctor's note only for absences lasting 4 or more consecutive days.

Newfoundland

Employees with at least 30 days of continuous employment get up to 7 days of unpaid sick or family responsibility leave if they get sick or must care for a sick family member. Employees must provide notice if leave lasts 3 or more consecutive days. If leave is due to an infectious illness for which a public health emergency is in effect, employees also get communicable disease emergency leave which is unpaid and lasts if the circumstances requiring the employee to take leave continue. You may not ask for a doctor's note to verify sick leave or communicable disease emergency leave.

Northwest Territories

Employees with at least 30 days employment get 5 days of unpaid sick leave per 12-month period. Employers can require a doctor's note only for leave lasting more than 3 consecutive days. If leave is due to an infectious illness for which a public health emergency is in effect, employees also get emergency leave which is unpaid and lasts if the circumstances requiring the employee to take leave continue. You may not ask for a doctor's note to verify emergency leave.

Nova Scotia

Employees get 5 unpaid days for sickness or injury to themselves and 3 unpaid days due to the sickness or injury of a child, parent, or family member. The government will soon publish regulations governing verification. If leave is due to an infectious illness for which a public health emergency is in effect, employees also get emergency leave which is unpaid and lasts if the circumstances requiring the employee to take leave continue. You can ask for reasonable verification of need for emergency leave if that verification isn't a doctor's note. Nova Scotia employees with at least 3 months' service also get up to 27 weeks of unpaid serious illness or injury leave.

Nunavut

Employees don't currently have sick leave rights in Nunavut.

Ontario

Employees with at least 2 weeks of consecutive employment get 3 unpaid days for personal injury, illness, or medical emergency. If leave is due to an infectious illness for which a public health emergency is in effect, employees also get infectious disease emergency leave (IDEL) which is paid. For example, during COVID,

required IDEL pay was the lesser of: (a) \$200 per day and: (b) Either: (i) the wages the employee would have earned had they not taken the leave, or (ii) if the employee receives performance-related wages, including commissions or a piece work rate, the greater of the employee's hourly rate, if any, and the minimum wage that would have applied for the number of hours the employee would have worked had they not taken leave. IDEL lasts if the circumstances requiring the employee to take leave continue. You can ask for reasonable verification of need for both sick leave and IDEL if that verification isn't a doctor's note.

Prince Edward Island

Employees with 3 months of continuous employment get 3 unpaid sick leave days. Employees continuously employed for 12 months get 1 paid sick day, which increases to 2 paid sick days after 24 months and 3 paid sick days after 36 months. You can ask for a doctor's note if sick leave is for 3 or more consecutive days. If leave is due to an illness for which a public health emergency is in effect, employees also get emergency leave which is unpaid and lasts if the circumstances requiring the employee to take leave continue. You can ask for reasonable verification of need for both emergency leave if that verification isn't a doctor's note.

Québec

Employees get up to 26 weeks of unpaid medical leave for non-work-related illness (as well as sickness, organ or tissue donation for transplant, domestic violence, or sexual violence), the first 2 days of which are paid at the same rate as pay for stat holidays not worked. You may require the employee to furnish a document attesting to the reasons for the absence if such a request is "warranted" such as by the duration or repetitive nature of the absence.

Saskatchewan

Employees with more than 13 weeks of consecutive employment get 12 unpaid days for non-serious illness or injury, **unless** you can show that the employee has a record of chronic absenteeism and there's no reasonable expectation of improved attendance. You may also require a doctor's note. Eligible Saskatchewan employees also get 12 weeks of unpaid leave for non-work-related illness or injury. If leave is due to illness for which a public health emergency is in effect, employees also get public health emergency leave which is paid at the employee's regular wage and benefits rate. Public health emergency leave lasts if the circumstances requiring the employee to take leave continue. You can't ask for a doctor's note to verify public health emergency leave.

Yukon

Employees get 1 unpaid sick leave day per year for each calendar month they've been employed up to 12 days per year. You may ask employees for a doctor's note verifying the need for sick leave.

Takeaway

Employees in every part of Canada except Nunavut are entitled to take sick days without being subject to retaliation and reprisal. However, only 4 jurisdictions currently provide for **paid** sick leave—Federal, BC, Prince Edward Island, and Québec. Federal law is, by far, the most generous to employees with up to 10 paid days per year, followed by BC with 5, PEI with 3, and QC with 2. However, Ontario and Saskatchewan, where sick leave is unpaid, provide for paid leave for absences due to

public health emergencies. In all other jurisdictions, public health emergency leave is either unpaid or nonexistent. Long-term personal illness and injury leave, where it exists, is also unpaid.