

Are You Owed Wages?

How the Law and L & I Can Help You Get Wages Your Employer Owes You

Can the law help me?

State law gives the Washington Department of Labor and Industries (L&I) authority to collect wages owed to workers. L&I can decide what wages are due **and** collect those wages for you. The law also gives L&I power to collect civil penalties against employers who have willfully failed to pay wages.

If the employer or the worker disagrees with L&I's decision, either can appeal to an Administrative Law Judge. We explain in this publication how you can "opt-out" of the administrative process and file a court action. The administrative process is usually simpler than going to court.

Can I go to court instead of using the L&I wage complaint process?

Yes. You do not have to complain to L&I. You can go to small claims court or hire a lawyer to help you collect your wages. (Our publication called [Small Claims Court in Washington State](#) has more information on going to small claims court. You can get it at www.washingtonlawhelp.org.) If you ask L&I to help collect wages, you may have to choose between going to court and having L&I collect for you.

What are my rights to receive wages in Washington?

Under state law, you have the right to receive:

- The wages promised by your employer
- The minimum wage (this applies to most workers). Our publication [How to](#)

[Enforce Your Right to Receive Minimum Wage](#) has more information.

- Overtime (time-and-a-half pay) for work over 40 hours a week (this applies to most workers)
- Payment of wages without illegal deductions
- Payment of wages on the next regular payday if you quit or are fired

What can I get if I go to court instead of using the L&I wage complaint process?

If the employer "willfully" fails to pay wages owed you (if the employer knew what s/he was doing and still did not pay you all your wages), you may file suit in court for double the amount of the unpaid wages.

Sometimes the failure to pay wages is not willful. **Examples:**

- the employer makes an honest mistake (and corrects it when s/he finds out)
- the employer is confused about her/his obligation to pay wages

If the failure to pay wages is not "willful," you can sue for unpaid wages, but not double that amount. The court may also order the employer to pay your attorney fees if you win. You must file either a court action or an L&I complaint within three years of the date that wages were owed.

What can I get through the L&I wage complaint process?

If L&I finds that your employer violated the law, it can only collect the wages and interest owed. L&I **cannot** assess or collect double the unpaid wages for you, even if your employer willfully failed to pay. If L&I assesses penalties against the employer for willful failure to pay wages, those penalties would go to L&I, not you.

In some cases, you may rather complain to L&I instead of going to court. (**Example:** if going to court might take too long or cost too much.)

How the L&I wage complaint process works:

1. If you feel your employer has not paid you all wages owed, **you may make a wage complaint with L&I**. You may do this in writing, either in a letter or on L&I's complaint form (available at any L&I office or online). You may get help filling out this form at any L&I office. You must sign the form or letter in order for L&I to start the investigation. L&I will only pursue claims for actual hours worked and other amounts that count as "wages." (This might not include things such as bonuses, vacation pay or holiday pay owed.)
2. **L&I will investigate** the complaint and within 60 days make either:
 - a) a "**citation and assessment**" requiring the employer to pay the unpaid wages, plus interest at 1% per month, or
 - b) a "**determination**" that your employer did not violate the law and does not owe anything.

L&I must get a copy of its decision to both you and the employer by certified mail or service of process.

3. If L&I issues a citation and assessment against your employer for unpaid wages, the employer can avoid paying L&I a penalty by paying the wages owed plus interest of 1% per month within ten days of getting the citation. If you accept the employer's check for the unpaid wages and any interest that L&I decides the employer owes, you give up the right to object to L&I's decision. You may not file suit against the employer for the violation you complained to L&I about.
4. If you do not agree with either L&I's citation and assessment or its determination, you have two choices:
 - a) To keep your right to go to court, you must "opt out" of the administrative process. You must write L&I within ten days of getting the decision and state that you want to end the complaint. You then have three years from the date the wages were owed to file a lawsuit. You may not use L&I's findings in your lawsuit;

OR

 - b) If you do not agree with L&I's decision and want to stay with the administrative process, you can file an administrative appeal of L&I's decision within 30 days of the decision. You can appeal if you think that L&I was wrong in finding no wages owed, or if you think that

L&I did not find enough wages owed. The employer can also appeal L&I's decision if they disagree with it.

5. **If you do not write to “opt-out”** from the decision, and neither you nor the employer appeal the decision by L&I, the L&I decision is final. When any appeals are over and L&I's decision is final, L&I can collect wages for you.

Before you decide to file an L&I wage complaint:

- Talk to a lawyer first for help deciding which process (court or L&I) is best for you. You cannot do both at the same time. You must start either option within three years of the date that you are owed wages.

- You can only go for double damages for the employer's willful failure to pay wages in a court action.
- If you first use the L&I wage complaint process, you will be **giving up any right to sue in court** for double the unpaid wages unless you notify L&I that you are withdrawing from the administrative process **within ten days** of L&I's decision that the employer owes wages.

L&I has many offices statewide. You may file a complaint at any one. For the office nearest you, call 1-800-547-8367. For TDD service call: 360-902-4685

If you have questions about your rights, contact CLEAR (Coordinated Legal Education, Advice, and Referral) at 1-800-201-1014.

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