

# I have filed a complaint with the Commission des normes du travail

What happens now?



LABOUR STANDARDS

For a better  
understanding



Have you filed one or more complaints against your employer for one of the reasons stipulated in the Act respecting labour standards?

Here is how your file is processed by the Commission des normes du travail and what steps may be taken according to the type of complaints filed.

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# Follow-up on my COMPLAINT

Use this page to jot down the information that will be provided to you by the Commission des normes du travail as your file is being processed.

## Employer's name:

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### Type of complaints filed:

1. Pecuniary complaint
2. Complaint for a prohibited practice
3. Complaint for a dismissal not made for good and sufficient cause
4. Complaint for psychological harassment

### File number:

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Name of the resource person:

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Telephone: 

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### Mediation service

Name of the resource person:

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Telephone: 

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## Are you moving?

Remember to inform us of your new address.



You filed a

# PECUNIARY COMPLAINT

## Receipt of the complaint

The Commission des normes du travail first makes sure that the complaint can be accepted. One of its representatives checks:

- that you are or were an employee in an enterprise under provincial jurisdiction;
- that the violated standard applies to you;
- that you filed the complaint within the required time period.

Unless you give your consent, the Commission cannot disclose your identity during the processing of the complaint. However, the Commission makes sure that it is possible to process your complaint without mentioning your name.

### A rejected complaint

If the complaint cannot be accepted, the Commission notifies you that it is putting a stop to its intervention. It gives you the reasons for this decision.

Where applicable, you are also informed that you can request in writing a review of this decision in the following 30 days. This request must be addressed to the Commission's Director General of Legal Affairs. You must then indicate the precise point(s) about which you are in disagreement.

The Director General must make a decision in the 30 days following the receipt of your application. If the Director General is of the opinion that the processing of your complaint should continue, he informs you that the Commission will follow up on your complaint as soon as possible.

### An accepted complaint

If the complaint is accepted, the representative of the Commission informs your employer of the nature of the complaint filed. He endeavours to obtain the amount that is owing to you.

If no settlement is reached, the complaint is then entrusted to an inspector-investigator.

## Processing of the complaint

### The investigation

The inspector-investigator asks you, where applicable, for the following documents:

1. A copy of the statement of employment issued by the employer according to the Employment Insurance Act
2. The pay sheets
3. Your booklet of hours worked
4. A copy of the contract of employment
5. Letters from the employer
6. Tax slip (T-4 or Relevé 1)
7. Any other document deemed useful for the investigation

During his investigation, the inspector-investigator endeavours to clarify the facts and to gather new elements. He also obtains the employer's version of the facts.

### Closing of the file

At the end of the investigation, if the inspector-investigator considers that there is no reason to follow up on the complaint, he notifies you in writing of the decision. He gives you the reasons for this decision.

You are also informed that you can request in writing a review of this decision in the following 30 days. This request must be addressed to the Commission's Director General of Legal Affairs. You must then submit to him the elements that you deem important and that show that the conclusion of the investigation should have been different.

The Director General must make a decision in the 30 days following the receipt of your application. If the Director General is of the opinion that the investigation should resume, he will ask that the file be reopened. You will be informed thereof.





### **Claim sent to the employer**

If the inspector-investigator considers that there is reason to follow up on the complaint, he draws up a claim on your behalf. At this time, a claim letter along with a copy of the “Details of the claim” is sent to the employer. You will also receive a copy thereof.

If the employer pays the amount claimed, the Commission then puts an end to its intervention.

If the employer does not pay the amount claimed within a period of ten days, the inspector-investigator sends the complaint to one of the lawyers of the Direction générale des affaires juridiques of the Commission des normes du travail to institute the appropriate legal action.

Depending on the case, approximately 90 days may pass between the receipt of the complaint and the transfer of your file to the Direction générale des affaires juridiques, where such is the case. However, the majority of complaints are settled before this stage.

### **Transfer of the file to a lawyer**

As soon as your file is entrusted to a lawyer of the Direction générale des affaires juridiques of the Commission des normes du travail, he contacts you without delay.

He informs you of his contact information and sends you the brochure entitled “My complaint has been entrusted to a lawyer, what happens now?” This brochure gives you an overview of the steps that may be taken depending on the type of complaint filed. In the meantime, you can consult the Commission’s web-site in the publications section of the documentation centre.

The lawyer then proceeds with the analysis of your file and takes the steps that he deems necessary. Depending on the steps taken, your presence in court could be required.

Depending on the case, approximately 180 days may pass between the introduction of the action against your employer and the inscription to obtain a hearing date in court.

The judgment is generally handed down in the weeks that follow. The judge may accept or reject your complaint. Your lawyer informs you of the results obtained.



You filed a complaint for a

- PROHIBITED PRACTICE
- DISMISSAL NOT MADE WITH GOOD AND SUFFICIENT CAUSE

## Receipt of the complaint

The Commission des normes du travail first makes sure that the complaint can be accepted. One of its representatives contacts you.

In the case of a complaint for a prohibited practice, he checks:

1. that you are an employee in an enterprise under provincial jurisdiction;
2. that the reason for which you are filing a complaint is indeed stipulated in the Act, and that a sanction was imposed on you;
3. that there is a link between the event that occurred and the sanction imposed;
4. that you worked for the enterprise for at least three months, if the imposed sanction results from an absence by reason of sickness, organ or tissue donation, accident, or a criminal offence;
5. that you filed the complaint within the required time period.

In the case of a complaint for a dismissal not made with good and sufficient cause, he checks:

1. that you are an employee in an enterprise under provincial jurisdiction;
2. that you worked for the same employer for at least two years;
3. that you do not benefit from an equivalent recourse under another Act or a collective agreement;
4. that you were dismissed;
5. that you filed your complaint in the 45 days following your dismissal.

## A rejected complaint

If the complaint cannot be accepted, the Commission notifies you that it is putting a stop to its intervention. It gives you the reasons for this decision.

Where applicable, you are also informed that you can request in writing a review of this decision in the following 30 days. This request must be addressed to the Commission's Director General of Legal Affairs. You must then indicate the precise points about which you are in disagreement.

The Director General must make a decision in the 30 days following the receipt of your application. If the Director General is of the opinion that the processing of your complaint should continue, he informs you that the Commission will follow up on your complaint as soon as possible.

## An accepted complaint

If the complaint is accepted, the representative of the Commission informs your employer of the nature of the complaint filed against him.

The file is then sent to the mediation service.

## Mediation session

As soon as your file is entrusted to a mediator, he gets in touch with you and your employer to propose a mediation session.

This meeting may help you find a solution to your conflict. You or your employer may refuse mediation.

It is also possible that mediation may not result in an agreement. At that time, the file is referred to a lawyer of the Direction générale des affaires juridiques of the Commission des normes du travail, and the complaint is referred to the Commission des relations du travail for a hearing.

The mediators of the Commission des normes du travail are subject to rules of ethics, notably with respect to impartiality, fairness and confidentiality.

Depending on the case, approximately 90 days may pass between the receipt of the complaint and the transfer of your file to the Direction générale des affaires juridiques, where applicable. However, the majority of complaints are settled before this stage.



## Transfer of the file to a lawyer

As soon as your file is entrusted to a lawyer of the Direction générale des affaires juridiques of the Commission des normes du travail, he contacts you without delay.

He informs you of his contact information and sends you the brochure entitled “My complaint has been entrusted to a lawyer, what happens now?” This brochure gives you an overview of the steps that may be taken depending on the type of complaint filed. In the meantime, you can consult the Commission’s web-site in the publications section of the documentation centre.

At this stage, the lawyer must wait to obtain a hearing date for your case before the Commission des relations du travail. He will send you all the details in a timely manner.

## Hearing before the Commission des relations du travail

A hearing before the Commission des relations du travail resembles what takes place in a court of law. For example, you are asked to give your version of the facts. The employer has the same rights. Your presence is mandatory.

Depending on the case, approximately eight months may pass between the receipt of the file by the Commission des relations du travail and the hearing.

The Commission des relations du travail may accept or reject your complaint. It has a maximum time period of 90 days following the last day of hearing to hand down its decision.

## The decision of the Commission des relations du travail

If the Commission des relations du travail accepts your complaint:

In the case of a prohibited practice, the commissioner can:

1. order your employer to reinstate you in the job that you held prior to the measure taken by the employer and pay you, as compensation, the equivalent of the wages and other fringe benefits of which you were deprived by the dismissal, suspension or transfer;
2. order the employer to cancel a sanction or to cease exercising discriminatory measures or reprisals and to pay you an indemnity, where applicable.

If you are a domestic, the Commission des relations du travail can only order your employer to pay you an indemnity corresponding to the wages and other fringe benefits of which you were deprived by your dismissal.

In the case of a dismissal not made with good and sufficient cause, the commissioner can:

1. order your employer to reinstate you in the job that you held prior to your dismissal;
2. order your employer to pay you the sums lost since your dismissal;
3. make any other decision that he deems fair and reasonable.

If you are a domestic, the Commission des relations du travail can only order your employer to pay you an indemnity corresponding to the wages and other fringe benefits of which you were deprived by your dismissal.

You filed a complaint for

# PSYCHOLOGICAL HARASSMENT

## Receipt of the complaint

The Commission des normes du travail first makes sure that the complaint can be accepted. One of its representatives contacts you and checks:

- that you are an employee in an enterprise under provincial jurisdiction;
- that you are not already covered by a collective agreement;
- that you are not a non-unionized employee appointed under the Public Service Act;
- that the complaint was filed in the 90 days following the last incidence of psychological harassment;
- that the facts described resemble a psychological harassment situation.

## A rejected complaint

If the complaint cannot be accepted, the Commission notifies you that it is putting a stop to its intervention. It gives you the reasons for this decision.

Where applicable, you are also informed that you can request in writing a review of this decision in the following 30 days. This request must be addressed to the Commission's Director General of Legal Affairs. You must then indicate the precise point(s) about which you are in disagreement.

The Director General must make a decision in the 30 days following the receipt of your application. If the Director General is of the opinion that the processing of your complaint should continue, he informs you that the Commission will follow up on your complaint as soon as possible

Even if the Commission des normes du travail deems that there is no reason to follow up on your complaint, you can ask that it be transferred to the Commission des relations du travail. This body is in charge of hearing your case and making a decision in your file. In this case, you will not be able to benefit from the services of a lawyer of the Commission des normes du travail. You will have the possibility to act alone or to retain the services of a lawyer of your choice or another person. Your presence is required. Your absence would lead to the rejection of your complaint.

## An accepted complaint

If the complaint is accepted, the representative of the Commission informs your employer of the nature of the complaint filed against him and of his obligations to prevent and to put a stop to psychological harassment.

The file is then transferred to the mediation service.

## Mediation session

As soon as your file is entrusted to a mediator, he gets in touch with you and your employer to propose a mediation session.

This meeting may help you find a solution to your conflict. You or your employer may refuse mediation.

It is also possible that mediation may not result in an agreement. At that time, the complaint is entrusted to an investigator of the Commission des normes du travail.

The mediators of the Commission des normes du travail are subject to rules of ethics, notably with respect to impartiality, fairness and confidentiality.





## Processing of the complaint

### The investigation

During his investigation, the investigator obtains your version of the facts. He also obtains the version of the facts of the presumed harasser(s), the employer, the witnesses, as well as all of the information and documents relevant to the investigation.

The purpose of the investigation, which is totally confidential in nature, is to determine if the Commission des normes du travail will continue processing the complaint by entrusting it to one of its lawyers. The investigation does not aim to decide whether or not the case involves a psychological harassment situation. It is only the Commission des relations du travail that can make such a decision.

Within the context of his work, the investigator seeks to identify possibilities for an agreement between you and your employer with a view to arriving at a settlement that respects your interests.

If an agreement is reached during the investigation, the Commission closes your file. In the opposite case, the investigator continues his investigation.

The investigators of the Commission des normes du travail are subject to rules, notably with respect to impartiality, fairness and confidentiality.

### The conclusions of the investigation

At the end of the investigation, if the investigator considers that there is no reason to follow up on the complaint, he notifies you in writing of his decision. He gives you the reasons for this decision.

You are also informed that you can request in writing a review of this decision in the following 30 days. This request must be addressed to the Commission's Director General of Legal Affairs. You must then submit to him the elements that you deem important and that show that the conclusion of the investigation should have been different. The Director General must make a decision in the 30 days following the receipt of your application. If the Director General is of the opinion that the investigation should resume, he will ask that the file be reopened. You will be informed thereof.

Even if the Commission des normes du travail deems that there is no reason to follow up on your complaint, you can ask that it be transferred to the Commission des relations du travail. This body is in charge of hearing your case and making a decision in your file. In this case, you will not be able to benefit from the services of a lawyer of the Commission des normes du travail. You will have the possibility to act alone or to retain the services of a lawyer of your choice or another person. Your presence is required. Your absence would lead to the rejection of your complaint.

If the investigator considers that there is reason to follow up on the complaint, he transfers the file to a lawyer of the Direction générale des affaires juridiques of the Commission des normes du travail, and the complaint is transmitted to Commission des relations du travail for a hearing.

Depending on the case, approximately 120 days may pass between the receipt of the complaint and the transfer of your file to the Direction générale des affaires juridiques, where applicable. However, the majority of complaints are settled before this stage.

## Transfer of the file to a lawyer

As soon as your file is entrusted to a lawyer of the Direction générale des affaires juridiques of the Commission des normes du travail, he contacts you without delay.

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At this stage, the lawyer must wait to obtain a hearing date for your case before the Commission des relations du travail. He will send you all the details in a timely manner.



## Hearing before the Commission des relations du travail

A hearing before the Commission des relations du travail resembles what takes place in a court of law. For example, you are asked to give your version of the facts. The employer has the same rights. Your presence is mandatory.

Depending on the case, approximately eight months may pass between the receipt of the file by the Commission des relations du travail and the hearing.

The Commission des relations du travail may accept or reject your complaint. It has a maximum time period of 90 days following the last day of hearing to hand down its decision.

### The decision of the Commission des relations du travail

If the Commission des relations du travail concludes that you were indeed the victim of psychological harassment and that your employer omitted to meet his obligations, the commissioner will notably be able to order your employer:

- to reinstate you in your job;
- to pay you an indemnity corresponding to the lost wages, where applicable;
- to take reasonable steps to put a stop to the psychological harassment;
- to pay you punitive and moral damages and interest;
- to pay you an indemnity for loss of employment, where applicable;
- to finance the psychological support that you require for a reasonable period that he determines;
- to modify your disciplinary file.

SERVICE DES RENSEIGNEMENTS

**514 873-7061**

Montréal Region

**1 800 265-1414**

Elsewhere in Québec, toll-free



[www.cnt.gouv.qc.ca](http://www.cnt.gouv.qc.ca)

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*Original text in French*

This text is provided for information purposes only. For more details, please refer to the Act respecting labour standards and its regulations, or get in touch with the Service des renseignements.

In this document, the masculine gender designates, where applicable, both women and men. The sole purpose of using the masculine gender is to make the text easier to read.

Direction des communications  
Commission des normes du travail  
Hall Est, 7<sup>e</sup> étage  
400, boulevard Jean-Lesage  
Québec (Québec) G1K 8W1

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