

# Sick Leave: An Important Support for Employees with Episodic Disabilities

By Wendy Porch, M. Ed. Canadian Working Group on HIV and Rehabilitation (CWGHR)

Living with an episodic disability can mean having to take time off work. Determining how much time you are entitled to, however, can be a tricky business. This article will outline the basics in terms of sick leave in Canada. How much you are entitled to is dependent upon a number of factors, such as whether or not you are entitled to unpaid and/or paid sick leave. There are other kinds of leave available as well, such as bereavement and compassionate care leave but this article only focusses on sick leave.

## **What is Sick Leave?**

Sick leave is, put simply, time off work so that you can recover from illness. In Canada, the amount of time you are entitled to varies from province to province. There are two types of sick leave: unpaid leave – which everyone in that particular jurisdiction is entitled to as long as they meet the qualification requirements outlined below - and paid sick leave which varies from employer to employer.

## **Unpaid Sick Leave**

Unpaid sick leave is generally legislated under provincial and territorial employment standards legislation. This legislation sets out the amount of unpaid sick leave that employees in those provinces are eligible to take, without penalty from their employer. Not all provinces and territories legislate sick leave. For example, Alberta and British Columbia do not have any legislation in place on unpaid sick leave. The table below outlines the basics in Canada regarding unpaid sick leave. In many cases, there is a qualification period. This means that the employee must have worked for the same employer for a consecutive set period of time before they are eligible for unpaid sick leave. In most cases, unpaid sick leave entitlement cannot be carried over into another year. In some cases, there is no qualification period (Nova Scotia, Ontario). In many cases employers may be allowed to ask for documentation about the need for the leave if it starts to become more than a few days. These requirements are not outlined in the table below, so check the legislation itself for this information. The legislation is linked for each area below.

## **Paid Sick Leave**

In addition to unpaid sick leave, some employees may have access to paid sick leave. This means that they can take time off and still be paid. Paid sick leave is normally set out in either a collective agreement (for unionized workplaces), your employment contract or in workplace policies. If you aren't sure what kind of paid sick leave you are entitled to, ask your union steward, human resources representative or manager for details.

## **Additional Types of Leave**

Under provincial and territorial legislation, employees are also eligible for a range of other unpaid leave types. These include: bereavement leave, which is usually granted to an employee who has recently lost a close family member, and compassionate care leave, which allows employees to take time off work to care for a seriously ill family member. These types of leave are not covered in this article, but should you require more information it is recommended that you consult with the legislation above and/or with human resource professionals in your jurisdiction.

## **Extended Sick Leave Combined with Income Supports**

Other types of leave that combine extended time off with income supports include short-term disability (STD) and long term-disability (LTD) coverage and Employment Insurance Sickness Benefits. STD and LTD coverage varies from person to person as they are part of an individual's benefits package, so not everyone will be eligible. EI Sickness Benefits are offered through Employment Insurance in Canada to people who have worked and paid into the program and who meet the eligibility requirements. These types of supports will be covered in more detail in upcoming fact sheets on EDEN.

## **Additional Reading on Sick Leave in Canada**

### **English Resources:**

"Paid sick leave has its advantages" – article by HR InfoDesk:

<http://www.hrinfodesk.com/preview.asp?article=23929>

"Leaves of Absence from Work" – article by WorkersHelp.ca <http://www.workershelp.ca/leaveofabsence.asp>

"Employment Insurance Sickness Benefits" – overview by the Government of Canada

<http://www.servicecanada.gc.ca/eng/sc/ei/benefits/sickness.shtml>

### **French Resources:**

Politiques RH et législation du travail: <http://hrcouncil.ca/info-rh/conge-de-maladie.cfm>

Assurance-emploi et prestations de maladie:

<http://www.servicecanada.gc.ca/fra/sc/ae/prestations/maladie.shtml>

Province/Territory/ Jurisdiction	Relevant Sick Leave Legislation	How Much Unpaid Sick Leave am I Entitled to?
Federal – includes Canadian Government and Crown Corporations	Canada Labour Code <a href="http://laws-lois.justice.gc.ca/eng/acts/L-2/">http://laws-lois.justice.gc.ca/eng/acts/L-2/</a>	After 3 months of consecutive employment, entitlement is up to 12 weeks of leave due to illness or injury
Alberta	Not legislated	n/a
British Columbia	Not legislated	n/a
Manitoba	Manitoba Employment Standards Code English: <a href="http://www.canlii.org/en/mb/laws/stat/ccsm-c-e110/latest/ccsm-c-e110.html">http://www.canlii.org/en/mb/laws/stat/ccsm-c-e110/latest/ccsm-c-e110.html</a>  French: <a href="http://www.canlii.org/fr/mb/legis/lois/cplm-c-e110/derniere/cplm-c-e110.html">http://www.canlii.org/fr/mb/legis/lois/cplm-c-e110/derniere/cplm-c-e110.html</a>	After 30 days of consecutive employment, entitlement is 3 days per year to attend to personal illness or a family matter
New Brunswick	New Brunswick Employment Standards English: <a href="http://www.canlii.org/en/nb/laws/stat/snb-1982-c-e-7.2/latest/snb-1982-c-e-7.2.html">http://www.canlii.org/en/nb/laws/stat/snb-1982-c-e-7.2/latest/snb-1982-c-e-7.2.html</a>  French: <a href="http://www.canlii.org/fr/nb/legis/lois/ln-b-1982-c-e-7.2/derniere/ln-b-1982-c-e-7.2.html">http://www.canlii.org/fr/nb/legis/lois/ln-b-1982-c-e-7.2/derniere/ln-b-1982-c-e-7.2.html</a>	After 90 days of consecutive employment, entitlement is 5 days of unpaid sick leave each year
Newfoundland and Labrador	Newfoundland and Labrador Labour Standards Act <a href="http://www.canlii.org/en/nl/laws/stat/rsnl-1990-c-l-2/latest/rsnl-1990-c-l-2.html">http://www.canlii.org/en/nl/laws/stat/rsnl-1990-c-l-2/latest/rsnl-1990-c-l-2.html</a>  French: n/a	After 30 days of consecutive employment, entitlement is 7 days per year to attend to illness or family responsibilities. (if the leave lasts longer than 3 days, employers can request documentation from a medical practitioner about the need for the leave)
Nova Scotia	Nova Scotia Labour Standards Code English: <a href="http://www.canlii.org/en/ns/laws/stat/rsns-1989-c-246/latest/rsns-1989-c-246.html?searchUrlHash=AAAAAQAKZW1wbG95bWVudAAAAAB">http://www.canlii.org/en/ns/laws/stat/rsns-1989-c-246/latest/rsns-1989-c-246.html?searchUrlHash=AAAAAQAKZW1wbG95bWVudAAAAAB</a> French: n/a	Entitlement is 3 days per year to attend to illness or care for a sick child. There is no qualification requirement.

Ontario	<p>Ontario Employment Standards Act</p> <p>English:  <a href="http://www.canlii.org/en/on/laws/stat/so-2000-c-41/latest/so-2000-c-41.html">http://www.canlii.org/en/on/laws/stat/so-2000-c-41/latest/so-2000-c-41.html</a></p> <p>French: <a href="http://www.canlii.org/fr/on/legis/lois/lo-2000-c-41/derniere/lo-2000-c-41.html">http://www.canlii.org/fr/on/legis/lois/lo-2000-c-41/derniere/lo-2000-c-41.html</a></p>	<p>Entitlement is 10 days in a calendar year of personal emergency leave for anyone who works for an employer with at least 50 employees. This leave can be used to attend to: urgent family matters, illness, medical emergency or death of a close relative. There is no qualification requirement.</p>
Prince Edward Island	<p>Prince Edward Island Employment Standards Act</p> <p><a href="http://www.canlii.org/en/pe/laws/stat/rspei-1988-c-e-6.2/latest/rspei-1988-c-e-6.2.html">http://www.canlii.org/en/pe/laws/stat/rspei-1988-c-e-6.2/latest/rspei-1988-c-e-6.2.html</a></p> <p>French: n/a</p>	<p>After a period of 6 months of consecutive employment, entitlement is 3 unpaid sick days and 3 days of family leave to attend to family issues.</p>
North West Territories	<p>Not legislated</p>	<p>n/a</p>
Nunavut	<p>Not legislated</p>	<p>n/a</p>
Quebec	<p>An Act Respecting Labour Standards English:  <a href="http://www.canlii.org/en/qc/laws/regu/cqlr-c-n-1.1-r-3/latest/cqlr-c-n-1.1-r-3.html">http://www.canlii.org/en/qc/laws/regu/cqlr-c-n-1.1-r-3/latest/cqlr-c-n-1.1-r-3.html</a></p> <p>French:  <a href="http://www.canlii.org/fr/qc/legis/regl/rlrq-c-n-1.1-r-3/derniere/rlrq-c-n-1.1-r-3.html">http://www.canlii.org/fr/qc/legis/regl/rlrq-c-n-1.1-r-3/derniere/rlrq-c-n-1.1-r-3.html</a></p>	<p>After 3 months of consecutive employment, entitlement is up to 26 weeks in a 12 month period if sick or recovering from an accident.</p>
Saskatchewan	<p>Saskatchewan Employment Act</p> <p>English:  <a href="http://www.canlii.org/en/sk/laws/stat/ss-2014-c-s-15.1/latest/ss-2014-c-s-15.1.html">http://www.canlii.org/en/sk/laws/stat/ss-2014-c-s-15.1/latest/ss-2014-c-s-15.1.html</a></p> <p>French: n/a</p>	<p>After a period of 13 weeks of consecutive employment, entitlement is 12 weeks in a period of 52 weeks if the illness or injury is serious. If the illness or injury is not considered serious, leave entitlement cannot exceed 12 days in any 52-week period.</p>
Yukon	<p>Yukon Employment Standards Act English:  <a href="http://www.canlii.org/en/yk/laws/stat/rsy-2002-c-72/latest/rsy-2002-c-72.html">http://www.canlii.org/en/yk/laws/stat/rsy-2002-c-72/latest/rsy-2002-c-72.html</a></p> <p>French:  <a href="http://www.canlii.org/fr/yk/legis/lois/lry-2002-c-72/derniere/lry-2002-c-72.html">http://www.canlii.org/fr/yk/legis/lois/lry-2002-c-72/derniere/lry-2002-c-72.html</a></p>	<p>Entitlement 1 day per month of employment per calendar year (1 day per month, up to 12 days per calendar year). There is no qualification requirement.</p>