“BEYOND HR” ACCOUNTABILITY GUIDE

This guide explains how to report your employer for retaliation to human rights and workplace safety bodies if your employer treats you badly for reporting sexual harassment. It also provides information on suing your employer if they fire you or force you to quit. This guide is for general information only and is not legal advice.

Note: Legal processes can be expensive if you choose to hire a lawyer and they can also take a lot of time. Generally, workplace safety bodies claims are the easiest to do without a lawyer, human rights claims often have the option of turning to legal aid lawyers or pro bono/low cost legal clinics, and legal actions in civil court are the most expensive, often requiring lawyers to navigate the system due to being complicated. Timelines vary, but usually workplace safety bodies’ processes are the fastest, while human rights bodies and courts take a long time to move complaints through the system to get to a hearing (it can take years).

Note: If you have signed documents with your employer if you were fired where you agreed to not pursue any legal action against them, you may not be able to file these claims. But, there may be exceptions to that in specific cases so get legal advice on that.

Retaliation

Retaliation is illegal. This means an employer is not allowed to punish you, treat you badly, or take negative action against you because you reported sexual harassment or helped with a sexual harrassment investigation as a witness.

Retaliation is also called reprisal, repudiation, prohibited action, discriminatory action, or disciplinary action in different federal/provincial/territorial laws.



Examples of retaliation after reporting sexual harassment include:



- **Being fired or demoted**
- **Having your pay reduced or getting fewer work hours**
- **Being moved to a worse role or location**
- **Receiving unfair or negative performance reviews**
- **Being left out of meetings or training, or having projects taken away**

To show the negative treatment is retaliation, connect it to your harassment report. Look for things like bad treatment starting soon after you reported, suddenly negative reviews after a history of good ones, unfair discipline, or closer monitoring after you spoke up. You don't need direct proof — circumstantial evidence is enough.

Instead of someone openly admitting something, circumstantial evidence looks at patterns, timing, and changes in behavior that point to a conclusion.

For example:

- You had good performance reviews for years, then suddenly got a bad one right after reporting harassment.
- Your hours were cut soon after you made a complaint.
- You were treated normally before reporting, but closely watched or disciplined afterward.



You don't need someone to say, "I'm punishing you for reporting." If the facts line up and strongly suggest that's what happened, that can be enough.

If you face retaliation, after reporting sexual harassment internally or externally, you have options:

- Tell the investigator, if your employer is already investigating your complaint
- For federal/provincial/territorial human rights bodies, report retaliation if you are being treated badly because you filed a human rights complaint about sexual harassment or raised sexual harassment at work.
- For federal/provincial/territorial workplace safety bodies, report retaliation if you are being treated badly because you reported sexual harassment as a hazard internally or to the workplace safety body.
- Retaliation is illegal even if the original sexual harassment complaint is not proven.

Federally Regulated Employees Reporting Retaliation

Human Rights

- If you are being treated badly because you filed a human rights complaint about sexual harassment or raised sexual harassment at work.
- **Who to file with:** Canadian Human Rights Commission
- Law: **Retaliation is illegal** under the *Canadian Human Rights Act* (Section 14.1).
- Deadline to file: Within 12 months

Workplace Safety

- If you are being treated badly because your reported sexual harassment as a hazard internally or to the Federal Labour Program.
- **Who to file with:** Canadian Industrial Relations Board
- Law: **Reprisal is prohibited** under the *Canada Labour Code* (Section 147).
- Deadline to file: Within 90 days

PROVINCIAL/TERRITORIAL REGULATED EMPLOYEES REPORTING RETALIATION TO HUMAN RIGHTS BODIES

Human Rights Body	Law	Deadline to File
Ontario Human Rights Tribunal	**Reprisal** illegal under the *Ontario Human Rights Code* (Section 8)	12 months from the date of reprisal
Alberta Human Rights Commission	**Retaliation** is illegal under the *Alberta Human Rights Act* (Section 10).	12 months from the date of the retaliation
British Columbia Human Rights Tribunal	**Retaliation** is illegal under the *BC Human Rights Code* (Section 43).	12 months from the date of the retaliation
Manitoba Human Rights Commission	**Reprisal** is illegal under the *Manitoba Human Rights Code* (Section 20).	12 months from the date of reprisal
New Brunswick Human Rights Commission	**Reprisal** is illegal under the New Brunswick Human Rights Act (Section 8).	12 months from the date of reprisal
Newfoundland and Labrador Human Rights Commission	**Retaliation** is illegal under the Newfoundland and Labrador Human Rights Act (Section 20).	12 months from the date of the retaliation
Northwest Territories Human Rights Commission	**Retaliation** is illegal under the NWT Human Rights Act (Section 15).	24 months from the date of the retaliation
Nova Scotia Human Rights Commission	**Retaliation** is illegal under the *Nova Scotia Human Rights Act* (Section 11).	12 months from the date of the retaliation

Human Rights Body	Law	Deadline to File
Nunavut Human Rights Tribunal	**Retaliation** is prohibited under the *Nunavut Human Rights Act* (Section 15).	24 months from the date of the retaliation
Prince Edward Island Human Rights Commission	**Repudiation** is illegal under the *PEI Human Rights Act* (Section 15).	12 months from the date of the repudiation
Quebec: Commission des droits de la personne et des droits de la jeunesse (CDPDJ) first gets the complaint and then decides send it to **Quebec Human Rights Tribunal**	**Reprisal** is illegal under *The Quebec Charter of Human Rights and Freedoms* (Section 82).	24 months from the date of reprisal
Saskatchewan Human Rights Commission	**Retaliation** is illegal under *The Saskatchewan Human Rights Code* (Section 53).	12 months from the date of the retaliation
Yukon Human Rights Commission	**Retaliation** is illegal under the Yukon Human Rights Act (Section 30).	18 months from the date of the retaliation

PROVINCIAL/TERRITORIAL REGULATED EMPLOYEES REPORTING RETALIATION TO WORKPLACE SAFETY BODIES

Workplace Safety Body	Law	Deadline to File
Ontario Labour Relations Board	**Reprisal** is illegal under the *Occupational Health and Safety Act* (Section 50).	No deadline but encouraged to report as soon as possible.
Alberta Occupational Health and Safety	**Discriminatory action** is illegal under the *Occupational Health and Safety (OHS) Act* (Sections 35 and 36).	Within 30 days from the discriminatory action
British Columbia WorkSafeBC	**Prohibited action** is illegal under *The Workers Compensation Act* (Sections 47 and 48).	12 months from the date of the prohibited action
Manitoba Workplace Safety and Health	**Reprisal** is illegal under the *Workplace Safety and Health Act* (Section 42).	6 months from the date of the reprisal
New Brunswick Human Rights Commission	**Reprisal** is illegal under the *New Brunswick Human Rights Act* (Section 8).	12 months from the date of reprisal
New Brunswick WorkSafeNB	**Discriminatory action** is illegal under the *Occupational Health and Safety Act* (Section 24 and 25)	12 months from the date of the discriminatory action
Newfoundland and Labrador WorkplaceNL	**Discriminatory action** is illegal under the *Newfoundland and Labrador Occupational Health and Safety (OHS) Act* (Section 49).	6 months from the date of the discriminatory action

Workplace Safety Body	Law	Deadline to File
Northwest Territories Workers' Safety and Compensation Commission	**Discriminatory action** is illegal under *The Northwest Territories Safety Act (Consolidation)* (Section 22).	No deadline but encouraged to report as soon as possible.
Nova Scotia Department of Labour, Skills and Immigration, Occupational Health and Safety Division	**Reprisal** is illegal under the *Occupational Health and Safety Act* (Section 45 and 46).	Within 30 days of the reprisal.
Nunavut Workers' Safety and Compensation Commission	**Reprisal** is illegal under the *Nunavut Safety Act (Consolidation)* (Section 13).	Within 90 days of reprisal.
Prince Edward Island Workers's Compensation Board of PEI	**Discriminatory action** is illegal under the *Occupational Health and Safety (OHS) Act* (Section 30).	No deadline but encouraged to report as soon as possible.
Quebec For *Act Respecting Labour Standards*, go to **Tribunal administratif du travail** For *Act Respecting Occupational Health and Safety*, go to **Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST)** which will then attempt to resolve and if it cannot, then it will refer to **Tribunal administratif du travail (TAT)**	**Discriminatory measures or reprisals** are illegal under the *Act Respecting Occupational Health and Safety* (Section 227).	Within 30 days of retaliation for *Act Respecting Occupational Health and Safety*

Workplace Safety Body	Law	Deadline to File
Saskatchewan OHS Harassment and Discriminatory Action Prevention Unit	**Discriminatory action** is illegal under the *Saskatchewan Employment Act (Consolidation)* (Section 3-35)	Within 12 months of the discriminatory action
Yukon Workers' Safety and Compensation Board	**Reprisal** is illegal under the *The Workers' Safety and Compensation Act* (Sections 53 to 56).	Within 21 days of reprisal

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ALTERNATIVE LEGAL ACTIONS

You can file legal actions against your employer to get compensation if they fire you or pressure you to quit. **The below legal actions are for employees who are not part of a union. If you are part of a union, use your union's grievance process.**

Letting someone go without proper severance (which means, payment of money for firing them) when there is no good reason is called **wrongful dismissal** under provincial or territorial laws, and **unjust dismissal** under federal law. What makes unjust dismissal different from wrongful dismissal is that your employer can be ordered to hire you back in an unjust dismissal, while in wrongful dismissal you can only be awarded money to compensate for losing your job.

If an employer makes your workplace so bad that you feel you have no choice but to quit, this is called **constructive dismissal.**

Alberta is the only province where **sexual harassment** is also recognized as a separate tort (which means, a legal wrong), meaning you can sue your employer for it specifically, but the other provinces and territories consider facts of sexual harassment in you being fired as **bad faith conduct in the manner of dismissal** (meaning, unfair or dishonest behaviour by an employer when firing someone) or grounds for claiming **emotional distress** in your wrongful dismissal claim. **You often cannot claim damages for bad faith conduct and emotional distress in small claims court, and would need to go to a higher level court to claim that in addition to compensation for being fired.**

ALTERNATIVE LEGAL ACTIONS FOR FEDERALLY REGULATED AND PROVINCIAL/TERRITORIAL EMPLOYEES

Body	Terminology Used and How to Submit	Deadline to File
Federally regulated workers should file an Unjust Dismissal Claim with the **Federal Labour Program**	**Unjust dismissal** under n Division XIV – Unjust Dismissal of Part III of the *Canada Labour Code* Submit this form with your termination letter to your regional Federal Labour Program office to start the legal action	90 days from the day you were fired
Ontario Small Claims Court (for claims under $50,000; is a faster process and easier to do without a lawyer) and **Ontario Superior Court** (for claims over $50,000)	**Wrongful dismissal** Ontario Small Claims forms are here. Ontario Superior Court forms are here.	Two years from the day you were fired
Alberta Court of Justice (for claims under $100,000; is a faster process and easier to do without a lawyer) and **Alberta Court of Kings Bench** (for claims over $100,000)	**Wrongful dismissal** **Only province to have recognized a separate tort of sexual harassment.** Alberta Court of Justice forms are here. Alberta Court of Kings Bench forms are here.	Two years from the day you were fired
BC Civil Resolution Tribunal (for claims under $5,000; easiest navigate without a lawyer), **Provincial Court of BC** (for claims over $5,000 but under $35,000; is a faster process and easier to do without a lawyer that BC Superior Court), and **BC Supreme Court** (for Claims over 35,000)	**Wrongful dismissal** BC Civil Resolution Tribunal forms are here. Provincial Court of BC forms are here. BC Supreme Court forms are here.	Two years from the day you were fired

Body	Terminology Used and How to Submit	Deadline to File
Manitoba Court of Kings Bench (has a small claims process that is easier to do without a lawyer and faster for claims under $20,000, while other claims for over $20,000 are filed with the regular civil division of the court)	**Wrongful dismissal** MB Court of Kings' Bench Small Claim form is here. MB Court of Kings' Bench form to start a regular civil claim is here.	Two years from the day you were fired
New Brunswick Small Claims Court (for claims under $20,000; is a faster process and easier to do without a lawyer) and **New Brunswick Court of Kings Bench** (for claims over $20,000)	**Wrongful dismissal** New Brunswick Small Claims forms are here. New Brunswick Court of Kings Bench forms are here.	Two years from the day you were fired
Alberta Court of Justice (for claims under $100,000; is a faster process and easier to do without a lawyer) and **Alberta Court of Kings Bench** (for claims over $100,000)	**Wrongful dismissal** **Only province to have recognized a separate tort of sexual harassment.** Alberta Court of Justice forms are here. Alberta Court of Kings Bench forms are here.	Two years from the day you were fired
Newfoundland and Labrador Provincial Court (for claims under $25,000; is a faster process and easier to do without a lawyer) and **New Brunswick Supreme Court** (for claims over $25,000)	**Wrongful dismissal** Newfoundland and Labrador Provincial Court (small claims division) forms are here. Newfoundland and Labrador Supreme Court forms are here.	Two years from the day you were fired

Body	Terminology Used and How to Submit	Deadline to File
Northwest Territories Territorial Court (for claims under $35,000; is a faster process and easier to do without a lawyer) and **Northwest Territories Supreme Court** (for claims over $35,000)	**Wrongful dismissal** NWT Territorial Court forms are here. NWT Supreme Court forms are here (go to page 240 to find the Statement of Claim form).	Two years from the day you were fired
Nova Scotia Small Claims Court (for claims under $25,000; is a faster process and easier to do without a lawyer) and **Nova Scotia Supreme Court** (for claims over $35,000)	**Wrongful dismissal** NS Small Claims Court forms are here. NS Supreme Court forms are here.	Two years from the day you were fired
Nunavut Court of Justice (has a small claims process that is easier to do without a lawyer and faster for claims under $20,000, while other claims for over $20,000 are filed with the regular civil division of the court)	**Wrongful dismissal** Nunavut Court of Justice Small Claim forms are here. Nunavut Court of Justice civil forms are here.	Two years from the day you were fired
Prince Edward Island Supreme Court (has a small claims division that is easier to do without a lawyer and faster for claims under $50,000, while other claims for over $50,000 are filed with general court division)	**Wrongful dismissal** PEI Supreme Court forms are here (the first table has general court division forms and the second table has small claims division forms).	Two years from the day you were fired

Body	Terminology Used and How to Submit	Deadline to File
Quebec Civil Court Small Claims Division (for claims under $15,000; is a faster process and easier to do without a lawyer) and **Quebec Superior Court** (for claims over $15,000)	**Wrongful dismissal** Quebec Civil Court small claims forms are here. Quebec Superior Court forms are here.	Two years from the day you were fired
Saskatchewan Provincial Court (for claims under $50,000; is a faster process and easier to do without a lawyer) and **Saskatchewan Court of Kings Bench** (for claims over $50,000)	**Wrongful dismissal** Saskatchewan Provincial Court forms for starting a small claims action are here. Saskatchewan Court of Kings Bench forms are here.	Two years from the day you were fired
Yukon Small Claims Court (for claims under $25,000; is a faster process and easier to do without a lawyer) and **Yukon Supreme Court** (for claims over $25,000)	**Wrongful dismissal** Yukon Small Claims Court forms are here. Yukon Supreme Court forms are here.	Two years from the day you were fired

For more information:
Visit our website: ccmw.com/wish

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Canadian Council of Muslim Women (CCMW)
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