



400 University Avenue
14th Floor
Toronto ON M7A 1T7
Tel: 416 326-7660
Fax: 416 326-1449

400, avenue University
14e étage
Toronto ON M7A 1T7
Tél. : 416 326-7660
Télééc. : 416 326-1449

Question Number 354

Enquiry of the Ministry — Will the Minister of Labour indicate how employment standards, including health and safety and anti-reprisals protections, differ in their application to migrant workers in Ontario.

Tabled by MPP McNaughton on April 16, 2015

Response:

Thank you for your enquiry.

In general, Ontario's workplace laws apply to all employees under the province's jurisdiction including temporary foreign (migrant) workers, and do not differentiate between workers on the basis of their immigration status. This includes laws regarding employment standards, occupational health and safety, and workplace insurance.

The *Employment Standards Act, 2000* (ESA) establishes the basic rights and responsibilities of most employers and employees in Ontario, including temporary foreign workers. The ESA, however, does not apply to employees that fall under federal jurisdiction. There are also some employees who are covered by the ESA generally but are exempt from certain parts of it because they do a particular type of work.

The ESA covers a number of employment standards, including the payment of wages, minimum wage, hours of work and overtime, pregnancy and parental leave, public holidays, termination and severance pay. The ESA protects employees from reprisal if they have acted in compliance with the legislation and sought enforcement of it. An employer that does penalize an employee for exercising his or her rights under the ESA can be ordered by an employment standards officer to reinstate an employee to his or her job and compensate an employee for any loss incurred because of a violation of the ESA.

The *Employment Protection for Foreign Nationals Act (Live-in Caregivers and Others), 2009* (EPFNA) also offers reprisal protection. Under EPFNA, recruiters cannot threaten, intimidate or punish anyone for asserting his or her rights under EPFNA or under the ESA. EPFNA currently covers foreign live-in caregivers. On November 20, 2015, EPFNA's coverage will be extended to all foreign nationals who are working or attempting to find work in Ontario under an immigration or foreign temporary employee program.

In 2014/2015, the Ministry has scheduled a province-wide blitz on vulnerable and temporary foreign workers to raise awareness and help ensure employers follow these rules.

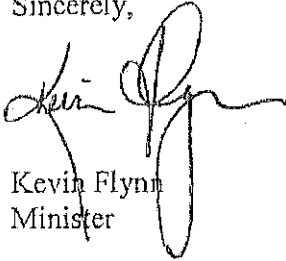
Ontario's Occupational Health and Safety Act (OHSA) provides workers with rights and responsibilities. OHSA does not differentiate between workers on the basis of their immigration status. This includes protections with respect to reprisals under the OHSA.

Ontario has one of the best safety records in Canada and the Ministry of Labour remains committed to enforcing the OHSA, and continuing to work with our health and safety partners and the federal government to address issues specific to migrant workers.

In addition, Premier Wynne's mandate letter to me last September stated that one of my priorities is "to work with the Minister of Citizenship, Immigration and International Trade to better protect migrant workers in Ontario. Your goal is to continue to strengthen protection for the most vulnerable workers in our province, while creating a level playing field for companies that follow the rules." The Premier's comprehensive letter is online at www.ontario.ca/government/2014-mandate-letter-labour.

In addition, I am pleased to inform you that the Ministry of Labour and Employment and Social Development Canada have finalized an information sharing agreement and that Ontario will be working with the federal government to implement it in the coming months. The information that we would be receiving from the federal government would help protect foreign workers by assisting Ontario in identifying employers of foreign workers and facilitating targeted enforcement and outreach activities.

Sincerely,



Kevin Flynn
Minister