

CASO, ANIMATION AND VFX INDUSTRY SUMMARY: ONTARIO EMPLOYMENT STANDARDS ACT, 2000

OVERTIME

Employees are entitled to 1.5 times their regular rate of pay per hour after 44 hours per week. Employees may agree in writing to average hours of work over two to four consecutive weeks to offset overtime or may agree to be compensated by receiving 1.5 hours of paid time off for each hour of overtime.

VACATION

Employees are entitled to vacation and vacation pay based on time employed.

Less than 5 years	Two weeks or 4% of gross wages
5 or more years	Three weeks or 6% gross wages

HOLIDAYS

For public holidays an employee will have the day off with pay or agree to work for 1.5 times regular wage or have another day off with pay. If the holiday falls on a non-working day, a work day will be substituted. Holiday pay is the total of regular wages from the previous 4 weeks divided by 20.

LEAVES OF ABSENCE

After two weeks of employment an employee is entitled to 3 days of sick leave, 3 days of family responsibility leave, and 2 days of bereavement leave, without pay, per calendar year.

INTERNS

The ESA does not apply to a secondary school student under a work experience program authorized by the school board; an individual under a program approved by a college of applied arts and technology or a university, or approved by a private career college registered under the Private Career Colleges Act.

INDEPENDENT CONTRACTOR

Workers thought to be independent contractors may in fact be employees subject to the *ESA* if the employer controls the workers activities, supplies equipment, hires support worker's staff, assumes financial risk of work, is responsible for investment and management, or worker has no opportunity to profit.

TERMINATION

Employers may be required to give notice of termination of employment

0 – 3 months	No notice
3 months – 1 year	1 week
1 – 3 years	2 weeks
3 – 4 years	3 weeks
4 – 5 years	4 weeks
5 – 6 years	5 weeks
6 – 7 years	6 weeks
7 – 8 years	7 weeks
8+ years	8 weeks

During the notice period, employer may not change any wage or condition of employment. If paid on a basis other than time, wage will be weekly pay averaged over the 12 weeks prior to notice.

PROBATION

Employers are not prohibited by the *ESA* from imposing a probationary period upon hire. Probationary employees may be dismissed for just cause, such as a decision that the employee is unsuitable for the job.

Employee must be informed of the employment criteria and be given a chance to fulfill requirements. Dismissal must be in good faith, reasonable and properly motivated, and employee must be told the reasons for dismissal.

ESA Exemptions

Under O. Reg 285/01, as employees in the recorded visual and audio-visual entertainment production industry, animation workers are exempt from *ESA* restrictions on hours of work in a day or week, hours between work, and eating periods.

SEVERANCE

An Employee is entitled to severance pay upon termination if they have been employed for 5 or more years, and the employer has a payroll of more than \$2.5 million or 50 or more employees are terminated within a six-month period. Severance pay is 1 week per year of service to a maximum of 26 weeks.

We encourage employees to know their rights, and to ask questions. More info on the *ESA* is available at the Ministry of Labour (www.labour.gov.on.ca).