

COVID-19 EMPLOYER / EMPLOYEE FAQs

March 2021

Employment Standards Act

CAN MY EMPLOYER REQUIRE ME TO USE VACATION DAYS TO COVER ANY ABSENCES FROM WORK AS A REACTION TO COVID-19?

Short answer, yes.

In Ontario, under the *Employment Standards Act (ESA)*, employers are entitled to choose when an employee can take their vacation time. Employers may schedule vacations and require employees to take vacation time when it suits the needs of the workplace.

However, if an employer does not have a history of ordering when an employee can go on vacation, the employee may be able to argue that the employer does not have a right to do so accordingly to the terms of employment (i.e. either as a result of the employment contract or general practice)

IF MY EMPLOYER TELLS ME TO STAY HOME, DO THEY HAVE TO PAY ME?

While there are exceptions, if a business advises its employees to stay at home as a precaution, employees should be paid. This is because the employer has contracted for the person's services and the person is willing, capable, and able to work. Some instances in which this may not apply would be individuals who are subject to irregular shifts.