

Labor & Employment Law Questions to Answer Before Completing the Claim for Unpaid Wages Form

Please read the following questions carefully before completing the form.

This Department assists in the collection of unpaid wages, but can only collect wages for time worked; we do not collect fringe benefits. A completed payment of wage form is required to initiate an investigation. **PLEASE DO NOT SUBMIT A PAYMENT OF WAGE CLAIM REGARDING THE FOLLOWING ISSUES:**

1. Are you claiming **VACATION PAY, SICK PAY, SEVERANCE PAY, HOLIDAY PAY, OTHER FRINGE BENEFITS, OR BUSINESS EXPENSES** that you believe are owed to you? While you may be legally entitled to such claims under contract law, this Department does not accept these types of claims for investigation. To recover on these claims you should ask the Clerk of the General District Court to help you file a Warrant In Debt against your employer. You may wish to consult a private attorney to discuss your claim.
2. Is this a **WORKERS' COMPENSATION** issue? We do not have jurisdiction over these matters: please contact the [Virginia Workers' Compensation Commission](#), 1000 DMV Drive, Richmond, Virginia, 23220, phone (804) 367-8600.
3. Are you an **INDEPENDENT CONTRACTOR** rather than an employee? Whether you are legally an independent contractor is not determined by any documents that may have been signed, but by standards promulgated by the IRS. This Department has the authority to assist only **employees**; we do not have jurisdiction over independent contractors. Independent contractors should file in court. You may wish to consult a private attorney to discuss your claim.
4. Are you **EMPLOYED BY AN INDIVIDUAL AS A DOMESTIC WORKER, SUCH AS A BABY-SITTER, MAID OR GROUNDSKEEPER**? We do not have jurisdiction over these matters: you must file in court. You may wish to consult a private attorney to discuss your claim.
5. Is this complaint for **OVERTIME** pay? Virginia law does not provide for time-and-a-half overtime: please contact the U.S. Department of Labor, Wage and Hour Division, 400 North 8th Street, Richmond, Virginia, 23240, phone (804) 771-2995. ([USDOL](#))
6. Is this claim for money owed by a **BANKRUPT EMPLOYER**? We do not have jurisdiction over these matters; please contact the United States Bankruptcy Court. Click here for the [Eastern District of Virginia](#), or click here for the [Western District](#).
7. Was all of the **WORK PERFORMED OUTSIDE VIRGINIA**? We do not have jurisdiction over these matters; your claim should be filed in the state in which the work was performed.
8. Is this a claim for a **BONUS**? You are legally owed bonuses only if prior to performing the work, you were promised the compensation in return for the work. You are not legally owed bonuses given at the discretion of the employer after the work has been performed.
9. Is there a **COURT CASE PENDING**? The Department does not accept claims when a case has already been filed in court.
10. Did you work under a **written employment agreement**? If so, your recourse is through the appropriate court as the Department does not accept claims for investigation when a written employment agreement was entered into by the parties. You may wish to consult a private attorney to discuss your claim.
11. Were you an **Officer, Director, or Partner** in the business? If so your recourse would be through the courts.
12. Is your claim for **\$15,000.00** or greater? The Department does not investigate wage claims that are \$15,000.00 or above. You may wish to consult a private attorney to discuss your claim.

Labor & Employment Law

INSTRUCTIONS FOR COMPLETING "CLAIM FOR WAGES" FORM

PLEASE READ THESE INSTRUCTIONS CAREFULLY

The attached form must be completed and returned in order for your claim to be investigated. Fill in all areas completely; if necessary, use a separate sheet of paper to provide additional information. Attach copies of all documents which will support your claim. Incomplete forms will be returned, causing a delay in the investigation of your claim. If you have not requested payment of your wages from your employer, you must do so before filing a claim. Only after you have been denied your wages should you file a claim with this office.

EMPLOYEES PAID BY THE HOUR:

If you are claiming wages based on an hourly wage, include the dates, days, and hours worked for which you were not paid; include the gross amounts of wages you are claiming. Please provide documentation, such as a paycheck stub to verify that the rate of pay you are claiming has been previously paid to you. Otherwise, our enforcement may be restricted to the requirements of the Virginia minimum wage of \$7.25 (07/24/09) per hour, if applicable.

EMPLOYEES PAID BY SALARY:

If you are claiming wages based on a salary rate, include the maximum number of hours and days you were required to work to receive the salary rate. Please provide documentation, such as a paycheck stub to verify that the salary you are claiming has been previously paid to you. Provide dates, days, and hours worked for which you were not paid and include the gross amount of wages you are claiming.

EMPLOYEES PAID BY COMMISSION:

State the total amount of wages you claim are due and show us how you arrived at the dollar amount of your claim. Provide a description of your commission agreement including the commission rate you were to receive. Tell us what you had to do to earn the commission and under what circumstances the commission would become due and payable. Account for any and all "draws" you may have received. Identify each specific account for which you seek payment of a commission and state the dollar amount of the commission you claim for each account. Please provide documentation such as a paycheck stub or an employment agreement to verify that the commission rate you are claiming has been previously paid to you.

ACCEPTANCE OF THIS CLAIM DOES NOT GUARANTEE COLLECTION OF WAGES

Upon acceptance of your claim by this Department, do not assume that your claim is valid and collectible. In cases where the employer disputes your charges, it will be YOUR responsibility to offer objective support for the amount and validity of your claim. Also, you must provide the company's complete name and address along with the owner's or company representative's full name and address.

Since wage claims are handled by field investigators, we do not provide periodic progress reports. Requests for progress reports only hinder the prompt resolution of your claim. When a final determination has been made, or if additional information is needed, you will be notified.

Please notify the appropriate regional office immediately of any change in your address, telephone number, or if you receive payment from your employer.

Directions for Filing the Initial Claim for Unpaid Wages

If you are claiming pay for work performed, please print out and submit your form to the following address. **Division of Labor and Employment Law, Virginia Department of Labor and Industry. North Run Business Park, 1570 East Parham Road, Richmond, Virginia 23228.**

Remember to sign the claim form and make sure to include the **employer's full address** as well as your best **estimate of the total wages owed to you**. Incomplete forms will be returned. After you submit the form, please notify the Department if there is any change in the status of the claim (i.e. you receive payment, change your address or telephone number or file your own claim in court).

**VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY
STATEMENT OF CLAIM FOR UNPAID WAGES**

(Please print clearly. We may be unable to assist you if your answers are incomplete.)

YOUR FULL NAME: _____

YOUR STREET ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

HOME PHONE: _____ WORK PHONE: _____

E-MAIL ADDRESS: _____ BIRTH DATE: _____

WHAT WAS YOUR JOB TITLE: _____

HIRE DATE: _____ TERMINATION DATE: _____ LAST DATE ACTUALLY WORKED: _____

HAVE YOU DEMANDED PAYMENT OF THE WAGES YOU CLAIM? YES NO. IF SO ON WHAT DATE DID YOU ASK FOR YOUR WAGES? _____

NAME OF PERSON WHO REFUSED TO PAY YOU: _____

REASON GIVEN: _____

BUSINESS NAME OF EMPLOYER: _____

TYPE OF BUSINESS: _____

APPROXIMATE NUMBER OF EMPLOYEES: _____

DID THEY USE ANY OTHER NAME(S)? YES NO. IDENTIFY: _____

STREET ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

BUSINESS PHONE: _____ EMPLOYER'S HOME PHONE: _____

MAILING ADDRESS, IF DIFFERENT FROM STREET ADDRESS:

COMPANY OFFICER OR OWNER: _____ THEIR TITLE: _____

OFFICER/OWNER'S HOME ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

IDENTIFY THE PLACE WHERE YOU PERFORMED WORK FOR THIS BUSINESS. CITY: _____

COUNTY: _____ STATE: _____ STREET ADDRESS: _____

1. YES NO IS THIS BUSINESS CLOSED OR IN BANKRUPTCY? If so, circle which status applies.
2. YES NO DID YOU HAVE A WRITTEN EMPLOYMENT AGREEMENT? (Attach a photocopy of any agreement you may have)
3. YES NO WERE YOU HIRED TO WORK AS A SUBCONTRACTOR OR AN INDEPENDENT AGENT?
4. YES NO DID YOU WORK FOR THIS BUSINESS AS A SELF-EMPLOYED PERSON?
5. YES NO WERE YOU A CORPORATE DIRECTOR, OWNER OR PARTNER IN THIS BUSINESS?
6. YES NO DID YOU FILE A COURT CASE FOR UNPAID WAGES?
If so, state name of court _____
7. YES NO HAVE YOU HIRED A LAWYER? _____
8. YES NO EXCEPT FOR TAXES, WERE MONIES SUBTRACTED FROM YOUR WAGES WITHOUT YOUR WRITTEN CONSENT?
If so, how much money was deducted? \$ _____
What was the purpose of the deduction? _____
9. YES NO DID THE BUSINESS GIVE YOU A "BAD" PAYROLL CHECK? (Attach copies of all bad checks you were given.)
10. CHECK WHAT APPLIES TO YOU: SALARIED; HOURLY; COMMISSIONS;
 DAILY RATE; PAID BY JOB OR PIECE
11. WHAT WAS YOUR RATE OF PAY? \$ _____ PER _____
(Hour, Month, Year, Piece, Etc.)
12. HOW OFTEN WERE YOU PAID? _____ LAST DATE YOU WERE PAID? _____
13. FOR WHAT TIME PERIOD WERE YOU NOT PAID YOUR WAGES?
_____ THRU _____
(Month-Day-Year) (Month-Day-Year)
14. TOTAL GROSS AMOUNT OF UNPAID WAGES YOU CLAIM: \$ _____

("Gross" means before taxes have been subtracted from your wages.) **NOTE:** Sick Leave, Paid Holidays, Vacation Leave, Severance Benefits, Per Diem and Expense Reimbursements are NOT "wages" within the meaning of the wage statute. **DO NOT INCLUDE THESE ITEMS IN THE DOLLAR AMOUNT OF YOUR CLAIM.**

USE THIS SPACE TO SHOW US HOW YOU ARRIVED AT THE DOLLAR AMOUNT OF YOUR WAGE CLAIM. ATTACH COPIES OF PAYROLL CHECK STUBS, "BAD CHECKS", FEDERAL W-2 OR 1099 FORMS, EMPLOYMENT AGREEMENTS AND ANY OTHER SUPPORTING DOCUMENTS YOU MAY HAVE.

I swear and certify that the information I have provided to the Department of Labor and Industry is true and accurate, and I hereby authorize the Virginia Department of Labor and Industry to release any and all information contained in my complaint file, to investigate my charges and to take any action it deems necessary to enforce the provisions of Section 40.1-29, Code of Virginia. I further authorize a photocopy of this complaint form, together with my supporting documents, to be released to the business I have named in this complaint. I understand that if I knowingly make a false statement on this complaint form, or if I knowingly make a false statement to any state member of the Department of Labor and Industry, I could be subject to a fine of up to \$10,000 or imprisonment for up to 6 months or both.

(Signature of Claimant - Please sign in ink) DATE: _____