

I'm owed wages. How do I get them?

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If you're owed wages by your employer or former employer, you can try to get what you're owed. Learn how to make a wage complaint.

1. Wage rights

What are my rights to receive wages in Washington?

Under state law, you have the right to receive:

- The wages promised by your employer
- The minimum wage (<https://lni.wa.gov/workers-rights/wages/minimum-wage/>) (this applies to most workers)
- Overtime (time-and-a-half pay) for work over 40 hours a week (this applies to most workers)
- Payment of wages without illegal deductions
- Payment of wages on the next regular payday if you quit or are fired

What are my options to try to get what's owed to me?

To try to get wages that you're owed (<https://lni.wa.gov/workers-rights/wages/getting-paid/>), you can choose to do 1 of these:

- File a workplace rights complaint to Washington State Department of Labor and Industries (L&I). If you ask L&I to help collect wages, **you may have to choose between** going to court **or** having L&I collect for you.
- Sue for your wages in Small Claims court if the wages and damages you're owed would be less than \$10,000. You have to represent yourself in Small Claims court, you can't use a lawyer.

- Hire a lawyer to help you get your wages. You can try to use a lawyer even if your claim is less than \$10,000 but you can't file it in Small Claims court if you use a lawyer.

You **must** file **either** a court action **or** an L&I complaint **within 3 years** of the date that wages were owed **or you may lose your right** to file a claim for the wages.

2. Willful violations

It matters whether your employer **purposely** failed to pay you. If your employer **knew** what they were doing and still didn't pay you all your wages, that's called "willfully" failing to pay you.

Sometimes the failure to pay wages **isn't** willful, such as:

- Your employer makes an honest mistake and corrects it when they find out.
- Your employer is confused about their obligation to pay wages.

It's important to know the difference. If your employer **was** willful, you may be able to get a higher amount paid to you than what you're owed.

3. What is the L&I complaint

Washington State law gives the Washington Department of Labor and Industries (L&I) authority to collect wages owed to workers (<https://lni.wa.gov/workers-rights/wages/getting-paid/>) through an administrative complaint process. L&I can:

- Decide what wages are due
- Collect those wages for you

- Collect civil penalties against employers who have willfully failed to pay wages

If you or your employer disagrees with L&I's decision, either of you can appeal to an Administrative Law Judge.

4. Using a court case

If you choose to file in court instead of using the L&I administrative process, you must start the case **within 3 years** of the wage violation. You will need to decide which court to use based on:

- Your unique situation
- Your location
- How much you are owed
- If you are using a lawyer
- If you have additional claims like discrimination or wrongful termination.

If you lost your job, make sure you understand what rights and responsibilities you might have.

Depending on your situation, you can file a wage claim case in one of these:

- Your local Small Claims Court (usually in your County District Court) if your claim is less than \$10,000
- Your local Superior Court
- Other courts if you have specific circumstances that require the case to be in a federal or tribal court

You can file a Small Claims court case by yourself without a lawyer. But you should get legal help before you file a wage claim case in Superior Court or in a federal or tribal court.

The The Washington Wage Claim Project (<https://wageclaimproject.org/>) provides legal help specifically for wage and hour violations.

5. Comparing options

The options are distinct from each other

There are benefits to using the administrative complaint process with L&I. **But you aren't required to use L&I.** You can choose to use a court action instead.

- The **administrative** process is usually **simpler** than going to court but can have its disadvantages depending on your specific situation. **You can choose to opt out of the administrative process with L&I** and file in court instead.
- **You may be able to get more money damages in court** than you can get through L&I depending on your situation. **Money damages** are what your employer will pay you back once the process is complete.

What can I get if I go to court instead of using the L&I wage complaint process?

If your employer **willfully** fails to pay wages owed to you, you can file suit in court **for double** the unpaid wages.

You can only get a double award for **willful** failures to pay if you use the court process **instead of** the L&I process.

If the failure to pay wages **isn't** willful, you can still sue for unpaid wages in court, but **not for double** what you're owed. The court can also order the employer to pay your attorney fees if you win.

If the amount you're owed plus any damages you might be owed is less than \$10,000, you can sue in Small Claims court.

If you complained to L&I and then accepted payment for the wages from your employer, you **can't** file suit against your employer for the violation.

What can I get through the L&I wage complaint process?

If L&I finds that your employer violated the law, it can **only** collect the wages and interest owed.

- L&I can offer your employer a chance to settle and pay you. Any settlement **must** include 1% interest per month. You can ask to waive or reduce the interest that your employer owes as part of the settlement.
- L&I **can't assess or collect double the unpaid wages for you**, even if your employer **willfully** failed to pay.
- If L&I assesses **penalties** against the employer for **willful** failure to pay wages, **those penalties would go to L&I, not to you**.
- In some cases, you may prefer to complain to L&I instead of going to court. It may be better to use L&I instead if going to court would take too long or cost too much.

What should I know if I'm deciding whether to file an L&I wage complaint?

You may want to talk to a lawyer (<https://wageclaimproject.org/>) first for help deciding which process is best for you. You **must** choose to file your complaint administratively **or** in court. **You can't do both at the same time**. You can only ask for double damages for the employer's willful failure to pay wages in a **court** complaint, not through the L&I complaint.

Both types of complaint must be started within 3 years of the date that you're owed wages.

Double damages **aren't available** to you if you use the administrative process to complain. If you start a wage complaint process with L&I, you **can't also sue** in court for **double** damages unless you:

- Notify L&I that you are withdrawing from the administrative process **and**
- **Do so within 10 days** of L&I's decision that the employer owes wages.

6. Find a lawyer

How do I find an employment lawyer?

If you do need to file a court case in Superior Court or in federal or tribal court, get legal help. Some lawyers will also help with the agency complaint filing and preparation for an L&I claim or other agency complaints.

To find an employment lawyer in your area, use the Washington State Bar Association's (WSBA) Legal Directory (<https://www.mywsba.org/PersonifyEbusiness/LegalDirectory.aspx>). You can choose search options for your results that can include:

- Your county, city, or area
- What kind of lawyer you need (you could choose Employment, Civil Rights, or Labor in the "Practice Area" dropdown menu)
- If you need a lawyer with specific community expertise, you can also choose that in the "Practice Area" dropdown menu (like Disability, LGBTQ, Military, or Workers Compensation)
- If you need a lawyer that speaks a language other than English, you can filter for that

Try to talk to a lawyer well before your deadline to file anything. A lawyer needs time to evaluate your claim and prepare the paperwork.

Before hiring a lawyer, learn how the lawyer will be paid (<https://legalvoice.org/working-with-a-lawyer/>) and how much the lawyer charges. Ask what costs you'll be charged on top of the lawyer's fee. If you have a low income, you might qualify for free legal help.

You can also use employment lawyer directories:

- The Washington Wage Claim Project (<https://wageclaimproject.org/>) (specifically for wage and hour violations)
- Washington Employment Lawyers Association (<https://welalaw.org/>)
- National Employment Lawyers Association (<http://exchange.nela.org/network/findalawyer>) is a national professional organization of lawyers who represent employees.
- Workplace Fairness (<http://www.workplacefairness.org/find-attorney>) has an Attorney Directory that includes lawyers who represent workers.

7. Make an L&I complaint: Step-by-Step

You can file a complaint at your local L&I office, or any office. L&I has many offices statewide (<https://lni.wa.gov/agency/contact/#office-locations>).

L&I only pursues claims for **actual hours worked** and other amounts that count as “wages.” This might not include things such as bonuses, vacation pay, or holiday pay owed.

There are 5 steps to the L&I wage complaint process.

1. **Make a wage complaint with L&I** in a letter or on L&I’s Worker Rights Complaint Form F700-148-000 (<https://www.lni.wa.gov/forms-publications/F700-148-000.pdf>). Or fill out and submit the form online (<https://secure.lni.wa.gov/wagecomplaint/#/>). You can also get this form and ask for help filling it out at any L&I office. You must sign the form or letter.
2. **L&I will investigate** the complaint and make a decision within 60 days. L&I must get a copy of its decision to you and the employer by certified mail or service of process. Once L&I makes its decision, it will issue **either**:
 - A **citation and assessment** requiring the employer to pay the unpaid wages, plus interest at 1% per month **or**
 - A **determination** that your employer didn’t violate the law and doesn’t owe anything.
3. **If L&I issues a citation and assessment, you must decide whether to accept payment from your employer.** Your employer can avoid paying L&I a penalty by paying the wages owed plus interest of 1% per month **within 10 days** of getting the citation. If you accept the employer’s check, **you can’t object** to L&I’s decision **or** file suit against your employer for the violation you complained to L&I about.
4. **If you don’t agree with** L&I’s citation and assessment or its determination, you must choose to appeal in court or administratively:

- If you **choose to stop the administrative process and go to court** instead, you must “opt out” of the administrative process by **writing to L&I within 10 business days** of getting the citation and assessment decision that you want to end the complaint. You then have 3 years from the date the wages were owed to file a lawsuit. **You can’t use L&I’s findings in your lawsuit.**
 - You can choose to stay with the administrative process **and appeal through L&I itself** if you think L&I was wrong in finding no wages owed or that L&I didn’t find enough wages owed. The employer can also appeal L&I’s decision if they disagree with it. You must file an administrative appeal of L&I’s decision **within 30 days** of the decision.
5. **The decision becomes final.** If you don’t write a letter to “opt-out” from the decision, and neither you nor the employer appeal the decision to L&I, then the L&I decision becomes final. Once any appeals are over and L&I’s decision is final, **then L&I can collect wages for you.**

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