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From: CLR Alerts
Sent: January 5, 2022 9:14 AM
To: Ken McCormack
Cc: Paul Strangway; Maria Sushkova
Subject: New ESA Sick Leave Requirements

Importance: High

CLR Members,

As we notified everyone late last year the new Sick Leave Provisions of the BC Employment Standards Act came into effect on January 1, 2022. We have had a number of questions about what payments are required while employees are on sick leave. Late last year we had questions from a number of members about what amounts are required to be paid when an employee is on sick leave. In response, we have now had time to look more closely at the provisions of the Act as well as seek legal feedback on this point. This has led to an update to what we believe is required to be paid while an employee is on sick leave.

The ESA language requires the sick leave payment to be based on wages paid to the employee over the previous 30 calendar days. The definition of wages in the Act does not include any overtime or contributions paid on behalf of the employee but it does include vacation and/or statutory holiday payments. Therefore, an employee on sick leave is entitled to an average days pay including vacation and statutory holiday pay calculated in accordance with the Employment Standards Act. Employer contributions are not wages as defined in the Act therefore payment of employer contributions is not required.

Please accept our apologies for any confusion caused by different advice some of you received late last year; however, this is a new provision of the Act and our advice has been updated to reflect the most current information available to us.

If you have any questions about this new sick leave requirement, please don't hesitate to contact us.

Sincerely,
Your CLR Team

