

Urgent Matter

An employee is eligible for personal emergency leave because of the death, illness, injury or medical emergency of, or an “urgent matter” concerning, a specified family member, as listed above. An urgent matter is an event that is unplanned or out of the employee's control, and raises the possibility of serious negative consequences, including emotional harm, if not responded to.

Examples of an "urgent matter":

- The employee's babysitter calls in sick.
- The house of the employee's elderly parent is broken into, and the parent is very upset and needs the employee's help to deal with the situation.
- The employee has an appointment to meet with his or her child's counsellor to discuss behavioural problems at school. The appointment could not be scheduled outside the employee's working hours.

Examples of events that do not qualify as an urgent matter:

- An employee wants to leave work early to watch his daughter's track meet.
- An employee wants the day off in order to attend at her sister's wedding as a bridesmaid.

Interaction Between Personal Emergency Leave and Contracts that Provide Paid Sick Leave or Bereavement Leave

If a contract (which includes a collective agreement) provides a greater right or benefit than the personal emergency leave standard in the ESA, then the terms of the contract apply instead of the personal emergency leave provisions of the ESA.

If the contract does not provide a greater right or benefit than the personal emergency leave standard in the ESA, the personal emergency leave provisions of the ESA will apply to the employee. The ministry will not get involved in determining how the leave provisions of the contract are applied.

For example, a contract only provides three paid personal sick days and three paid bereavement leave days per year. It does not provide job-protected time off for any other reason. This contract does not provide a greater right or benefit than the ESA's personal emergency leave provisions. This means that the employee will be entitled to 10 unpaid days of personal emergency leave per calendar year for any of the reasons listed in the ESA. If the employee takes 10 days of personal emergency leave for personal

illness, the employee will have used up the entitlement under the ESA. Questions of whether any of those absences must be paid, and whether those absences draw down against the three paid sick leave days under the contract are not matters the ministry gets involved in answering.

Length of Personal Emergency Leave

Employees are entitled to up to 10 full days of personal emergency leave every calendar year, whether they are employed on a full time or part time basis.

There is no pro-rating of the 10-day entitlement. An employee who begins work part way through a calendar year is still entitled to 10 emergency days during the remainder of that year.

Employees cannot carry over unused personal emergency leave days to the next calendar year. The 10 days of personal emergency leave do not have to be taken consecutively. Employees can take personal emergency leave in part days, full days, or in periods of more than one day. If an employee takes only part of a day as personal emergency leave, the employer can count it as a full day of leave.

Example: Part-day personal emergency leave

Kevin's employer regularly employs at least 50 employees. Kevin's daughter is sick and her doctor has scheduled some tests at the hospital. Kevin tells his employer that he has to be away from work in the morning to take his daughter for tests.

Kevin has the right to be on personal emergency leave for the half-day needed to take his daughter for the tests. His employer does not have to count the absence as a full day of leave but can if it wishes. Because Kevin only needed half of the day, he did not have the right to take the entire day off as personal emergency leave even if his employer counted the half-day absence as a full day of leave.

The employer can only count the half-day absence as a full day of leave for the purpose of determining whether Kevin's 10 day entitlement has been used up. For example, the employer still has to pay Kevin for the half day that he worked, and has to include the hours worked for the purpose of determining whether Kevin has worked overtime or has reached his daily or weekly limit on hours of work.

Notice Requirements

Generally, an employee must inform the employer before starting the leave that he or she will be taking a personal emergency leave of absence.

If an employee has to begin a personal emergency leave before notifying the employer, the employee must inform the employer as soon as possible after starting it. Notice does not have to be given in writing. Oral notice is sufficient.

While an employee is required to tell the employer in advance that he or she is taking a leave (or, if this is not feasible, as soon as possible after starting the leave), the employee will not lose the right to take personal emergency leave if the employee fails to do so. An employer may discipline an employee who does not properly inform the employer, but only if the reason for the discipline is the failure to properly notify the employer and not in any way because the employee took the leave.

Proof of Entitlement

An employer may require an employee to provide evidence reasonable in the circumstances that he or she is eligible for a personal emergency leave of absence. What will be reasonable in the circumstances will depend on all of the facts of any given situation, such as the duration of the leave, whether there is a pattern of absences, whether any evidence is available, and the cost of the evidence.