

Unpaid wages? What can you do?

You've got a right to your wages, with or without a residence permit!!

Experience shows that it is worthwhile to use a lawyer to go to the industrial tribunal/ labor court (called 'Arbeitsgericht') and take legal action to recover unpaid wages, even if you don't have residence status.

Your risk in this is calculable. For a start you don't have to show up at the court personally, if a lawyer is representing you. It is recommended to use an advice center as contact address.

According to previous experiences, the 'Arbeitsgericht' in Berlin was interested in the employee-employer relationship and the work that was done but not paid for, not in your residence status.

With regards to the costs for the lawyer, everyone who can't pay these costs themselves can get the so-called 'Prozesskostenhilfe', a kind of legal costs benefit. Once the application has been approved, the state will pay the lawyers fees. In our experience the applications for the legal costs benefit are approved.

However, there are some things you should do to enhance your chances for success when suing for the recovery of your wages:

- Verbal agreements (write them down in detail) with your boss about the work (where, how many hours, what kind of work, wages,...) count as a contract of employment too. Make sure you have witnesses for agreements on wages, working hours etc.
- You have to prove your employment and the work you did. Therefore:
Write down every working day what, where, when and how many hours you worked and who told you what to do. You should note down the breaks as well.
- In order to prove the work you did, it is important to know people who can testify where and since when you work and that you have been working.
- Preferably 1 month after your work, at the latest 2 months after your work, you have to send a reminder for the unpaid wages. It is important that this is in writing and you have to make a photocopy of the letter and keep that photocopy. After 1 or 2 months (depending on the pay agreement of the union) your entitlement to the wages lapses. You have to send the reminder for your wages as a special type of recorded delivery, called 'Einschreiben mit Rückschein', so you are able to proof that the letter arrived. (after a few days you get a slip the recipient has to fill in).

You should give your employer as little information about yourself as possible, so he/she can't treat you unfairly or blackmail you. For example, don't give your real address. It has happened more than once that employers inform the 'Ausländerbehörde' (german alien's registration office) on their employees, so they don't have to pay the wages.

Often just a letter from an advise center or from a lawyer, which contains a reminder of the wages due can persuade an employer to pay. Going to court about your right to your wages is not always successful. Still it is important to show employers, who try to take advantage of your difficult situation and don't pay, that they can't do what they please in a supposedly unlegislated area.

It is important to collect and swap information on employers who don't pay for work that has been done. There are advice centres, where you can pass on your experiences and find out about the necessary steps. If a claim at the industrial tribunal has to be made, they will find a lawyer for you.

For further information and support in Berlin:

AK undocumented work, “Aktivitäten” on this website

or:

[http://besondere-dienste.bb.verdi.de/lbzfsg_sonstige_dienstleistungen/
verdi_ak_undokumentierte_arbeit/verdi_ak_undokumentierte_arbeit/](http://besondere-dienste.bb.verdi.de/lbzfsg_sonstige_dienstleistungen/verdi_ak_undokumentierte_arbeit/verdi_ak_undokumentierte_arbeit/)