

Payment of Wages for Absences Related to Inclement Weather

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As a lot of us have learned recently, weather can wreak havoc on our ability to work. However, employers must be cautious when deciding whether to deduct pay from employees for a weather-related absence.

The Fair Labor Standards Act (“FLSA”) requires that an employer pay salaried exempt employees their full salary each week regardless of the quality or quantity of work. Employers may deduct from salaried exempt employees’ pay only under limited circumstances.

An employer may deduct from an employee’s pay when an employee is absent for one or more full days for personal reasons, other than sickness or disability. When a business remains open during inclement weather but the employee is absent, the employer may deduct a full-day’s wages. However, if the employee does any work during the day (whether from home or in the office), the employer must pay him or her for the full day. For example, an employee is absent from work on Monday and half of Tuesday due to icy road conditions. The employee does no work from home. The employer may deduct Monday’s pay from the employer but if the employee comes into the office after lunch on Tuesday, the employer must pay him for all of Tuesday.

If, however, an employer closes due to inclement weather, the employer may not deduct any absences from the exempt employee. Where the employee is ready, willing and able to work but work is not available due to business closure for less than a full workweek, the employer must pay the salaried exempt employee for any week in which he or she performs any work.

An employer is not required to pay nonexempt employees for any time they are absent due to weather-related incidents. An employer is only required to pay nonexempt employees for time actually worked regardless of whether the business remains open or closed during a weather emergency. However, employers may have policies that provide for pay due to inclement weather closures or allow employees to elect to use paid time off to cover the absence.

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