



Tip of the Month May 2019

Tackling Wage Theft

Submitted by:
Minnesota Department of Labor and Industry

What is Wage Theft?

The issue of wage theft has been prominent in recent news. Wage theft occurs when an employer avoids paying or fails to pay wages earned by its employees. The Minnesota Department of Labor and Industry (DLI) estimates that more than 39,000 workers experience wage theft in Minnesota each year. This creates a loss of at least \$11.9 million in wages owed, but not paid.

Wage theft can occur in many ways. For example:

- An employer requires employees to punch out for a break that is less than 20 minutes.
 - *All work breaks of less than 20 minutes are considered compensable time and must be paid.*
- An employer requires or allows hourly employees to come in early or stay late, performing work off the clock and not being paid for that time.
 - *Employers must pay for all hours worked, which includes preparation time, waiting time, training time, and cleaning time.*
- An employer deducts from an employee paycheck for something the employee damaged.
 - *The employer cannot deduct from an employee's wages for loss, theft, or damage to property unless the employee voluntarily provides a written authorization after the debt is incurred. This voluntary authorization by the employee cannot be made under threat of retaliation, such as firing or reduction of work hours.*
- An employer fails to pay all wages due on the final paycheck.
 - *Employers must pay the final wages earned by an employee who has been fired within 24 hours of their receipt of the employee's written demand for wages.*
 - *If the employer does not pay within 24 hours, the employer may be liable for a penalty of up to 15 days of the employee's average daily wages.*
- An employer does not pay the applicable minimum wage.
 - *Minnesota's minimum wage is \$9.86 for large employers or \$8.04 for small employers in 2019. The minimum wage rate is increased every January 1st based on inflation. Employers who have employees that work in cities that have enacted a higher minimum wage may be required to pay the higher wage rate.*
- An employer does not pay 1.5 times the employee's regular rate of pay for overtime hours.
 - *In most cases, Minnesota law requires payment of overtime after 48 hours are worked in a workweek.*

- *The federal overtime standard of 40 hours applies to most Minnesota businesses and is enforced by the United States Department of Labor, Wage & Hour Division, who can be reached at (612) 370-3341.*

Labor Standards Unit

DLI's Labor Standards unit oversees and provides information about the state's wage & hour laws, as well as provisions enacted under the Women's Economic Security Act. Each year, Labor Standards responds to more than 20,000 inquiries from employees and employers. To improve employer compliance, DLI directly visits hundreds of employers, conducts frequent presentations to employer and employee advocacy groups, and distributes a monthly Wage & Hour Bulletin (link below). DLI also investigates wage claims and complaints filed by Minnesota workers related to wage theft.

What is a Wage Claim?

Labor Standards receives wage claims to informally resolve cases of unpaid wages. While these situations often involve relatively small amounts of money, these losses can often be the difference between being able to pay a bill or put food on the table.

In 2018 Labor Standards processed 1,363 wage claims, resulting in \$670,000 in back pay for Minnesota workers. Labor Standards' wage claim process is free and Minnesota attorneys should feel free to refer individuals to DLI when applicable. Workers can make a claim by calling the Labor Standards Unit of the Department of Labor and Industry at 651-284-5075. It is important to note that workers who initiate a wage claim through DLI retain their right to take private action later.

Complaint Process and Investigatory Process

Labor Standards may address violations of provisions of Minnesota Chapters 177, 181, 181A, and Minnesota Rules Chapter 5200 through investigations and audits. Investigations and audits are initiated based on complaints received and strategic industry reviews. Through this process, Labor Standards may make a determination regarding an employer's compliance with Minnesota law. If a violation is found, Labor Standards may seek back wages, penalties, or other appropriate remedies through a combination of informal resolution or more formal actions such as issuing orders to comply.

Stay Connected and Learn More

Learn more about state wage and hour issues like overtime, child labor, parental leave, pregnancy accommodations by:

1. Visiting DLI's Employment Practices webpage at www.dli.mn.gov/business/employment-practices for information about final pay regulations, child labor, minimum wage, nursing mother accommodations, overtime, parental leave, payroll recordkeeping and tip regulations, plus other important labor standards issues.
2. Contacting us if you have any questions. DLI's Labor Standards is available from 7:30 a.m. to 6 p.m., Monday through Friday, at 651-284-5075 and dli.laborstandards@state.mn.us. Please note that Labor Standards cannot provide legal advice or provide compliance determinations based on unique scenarios.
3. Inviting Labor Standards to meet with your company or business association. We meet with businesses, nonprofits and others to explain Minnesota labor standards law.
4. Subscribing to the monthly Wage and Hour Bulletin email update: www.dli.mn.gov/business/employment-practices/minnesota-wage-and-hour-bulletin.