

BLOGS

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Wage and Hour Issues During Frightful Weather

I have been watching the weather carefully, because my family will be doing some tree trimming this weekend. As you can imagine, I was a bit concerned when I heard about potential snowfall. The threat of snow reminded me that inclement weather often results in questions from employers about how to address the related wage and hour issues that arise when they shut down their business for weather or employees are unable to get to work. In preparation for the upcoming winter snowstorm season, I offer the following guidelines:

What to Do When You Shut Down Your Business Due to Inclement Weather

Pay for Non-Exempt Employees

Non-exempt employees are those employees who are entitled to overtime pay under both the Fair Labor Standards Act and the Minnesota Fair Labor Standards Act. The basic rule for non-exempt employees is that you only pay non-exempt employees for the actual hours they work. Unless there is an employment agreement or union contract that provides otherwise, you do not have to pay non-exempt employees if they miss work due to snow or other inclement weather.

Pay for Exempt Employees

Exempt employees are those employees who are exempt from the overtime provisions of the Fair Labor Standards Act and the Minnesota Fair Labor Standards Act. Generally, exempt employees must be paid their full salary for any week in which they perform work. If you close your business for any reason, including inclement weather, you must pay your exempt employees their full salary for the week.

What to Do When an Employee is Unable to Come to Work Due to Inclement Weather

Pay for Non-Exempt Employees

The rules for non-exempt employees who are unable to come to work due to inclement weather are the same as those that apply when you shut down your business due to inclement weather. You only need to pay the employee for hours actually worked.

Pay for Exempt Employees

Exempt employees must be paid their full salary for any day in which they do any work. You may deduct an exempt employees pay for any full day absence due to purely personal reasons (other than sick time). The U.S. Department of Labor states that if you are open for business and an exempt employee either chooses or is not able to report to work, you may count the time as time off for a personal reason. You may only deduct if the employee is absent for the full day (not a partial day) and does not do any work. In todays world, many exempt employees work from home or at the very least regularly check emails on a smart phone. If the employee works from home, even for a short time, you must pay the employee the full salary for the day.



Deductions from Vacation/PTO Banks

Deductions for Non-Exempt Employees

If your vacation policy so provides, you can require non-exempt employees to use vacation time for the missed work time whether you close the business or the employee is unable to come to work.

Deductions for Exempt Employees

If your policy so provides, you may also reduce an exempt employees vacation bank for an absence when the company is closed due to inclement weather or the employee is unable to come to work. However, if the employee actually works from home, there would be no basis to make the deduction. The deduction from the vacation/PTO bank, even for less than a full day, does not affect the employees exempt status. Nonetheless, once the vacation bank is fully depleted you need to pay the employee for the full salary.

Now that you are prepared, as the song says: Let it Snow! Let it Snow! Let it Snow!