

## EMPLOYERS CAN DECIDE WHEN TO SEND EMPLOYEES HOME DUE TO INCLEMENT WEATHER

**Question:** I own and operate a coffee shop in downtown Portland. As you know, Portland had a light dusting of snow and ice this week. Some of my employees live in the higher elevations and a couple of them called me, saying they were afraid to come to work because of the ice. Others (some of whom live in the same area) came in as usual. Some of them proudly proclaimed that they had not had any trouble and that their timid co-workers were “wimps” for not coming in. They also said that it wouldn’t be fair for me to give their cowardly co-workers any leave or vacation time, since “we are all in the same boat.”

I don’t want to look like I’m forcing people to come in when they don’t feel comfortable. On the other hand, I don’t want to “reward” people who may be literally risking serious injury if they come in while conditions are treacherous. Therefore, I decided to do what was safest for everyone: I closed the shop and told everyone they could go home for the day. But someone told me that whenever an employee shows up for work, I have to pay them for at least four hours. Is that true?

**Answer:** No. Oregon does not have a requirement that you pay your employees for four hours or any other minimum time period, just because you send them home after they have shown up for work. Years ago, there was a requirement that employers pay employees for at least half of their shift (or one hour, whichever was greater), if they sent the employee home for lack of work. Although that requirement still exists for minors (those who are under 18 years old), it was repealed years ago for everyone else. And even if you employ minors, the law may still relieve you from this requirement if there was a natural disaster or some other event over which you had no control. Although not everyone may agree (especially those who have lived in the Midwest), it is doubtful that this most recent storm was an event of that significance.

Thus, you can decide whether or not to pay your employees “show-up time” of four hours or any other period when you decide to close your business, whether it is for safety reasons or for any other purpose.

**Question:** Since the snow kept falling, I decided to close the shop after three hours and sent everyone home for the day. I also told them that although they were free to take vacation time to make up the hours for the day, I would not be paying them any wages for the hours during which we were closed. But one of my employees, who is an exempt, salaried manager, told me that because he worked for part of the day, I have to pay him for the whole day. Since I wasn’t planning on doing this for my other employees, I thought it would be unfair to treat this one person differently. Am I alright here?

**Answer:** No - your exempt employee is correct. Although exempt employees do not have to be paid overtime, the flip side is that any time they work any part of a day, you must pay them for the whole day. Thus, although you are free to tell your non-exempt employees that you will not

pay them for times where they are not working, you may find that your exempt employee has become “nonexempt” if you violate these rules.

For more information on this or other important issues affecting Oregon employers, including seminars conducted by members of our Technical Assistance Unit, please visit our website at [www.oregon.gov/boli/ta](http://www.oregon.gov/boli/ta). You can also call us at 971-673-0824.