

IS IT REAL, OR IS IT ANOTHER “URBAN LEGEND?”

For very understandable reasons, employers often have trouble separating fact from fiction in the area of employment law. That is why we like to devote an occasional column to correcting some of the well-meaning but untrue assertions regarding legal obligations in the workplace. Below are some of the more common misperceptions:

Q. I’ve been told that when I schedule an employee for work, I have to pay him for a minimum of four hours. Is this really the law, or is it just one of those urban legends that seem to take on a life of its own?

A. As you suspect, this is not (and never has been) the law. Years ago, there was an Oregon statute stating that when employers sent employees home early, they still had to pay them for half of their scheduled shift or for one hour, whichever was greater. And although that law still exists for employees under 18 years old, it was repealed in 1991 for all other employees. Obviously, things go better for everyone if employers do not get into the habit of changing employees’ schedules without warning.

Q. There must be a law that limits the number of consecutive days that an employer can schedule an employee – isn’t there?

A. No, there isn’t. Of course, employers must pay overtime for all hours worked over 40 in a workweek and must provide breaks and meal periods for non-exempt employees. And there are some situations (such as manufacturing) in which employers cannot work employees more than a certain number of hours per day. But there is no law limiting the number of days in a row in which an employee can be scheduled. This is something that is often dealt with in an employer’s policy or collective bargaining agreement.

Q. I’m sure there is a law stating that once an employee has not shown up for work for three days, that is a voluntary “quit.” Correct?

A. Incorrect. It is highly advisable to have something in your employment policy that addresses an employee’s status after they have not shown up for a period of time. For example, such a provision could say, “If an employee has not contacted the company for their scheduled shift after two days, it will be presumed that the employee has voluntarily resigned.” But there is no Oregon law that attempts to dictate when an employment relationship has ended. That is up to the employer to do.

Q. I understand how those other examples might have been misunderstood. But surely there is a law putting a limit on the amount of overtime an employee can be made to work, right?

A. Although there are a few industries (such as manufacturing and mining) where such overtime limits exist, this situation is again not dictated by the law, but by what the employee market will bear.

For more information on this and other laws affecting Oregon employers, please visit our website at www.boli.oregon.gov/ta. You can also call us at 971-673-0824.