Fair Pay – Wage Claims

What are my rights to wages? As an employee in Texas, you have rights including:

- The right to be paid correctly regardless of your immigration status.
- The right to minimum wage and overtime (for most employees). The law requires employers to pay minimum wage and overtime for nearly all employees. Current minimum wage is $7.25 per hour. Special rules apply to tipped employees and to youth under age 20.
- The right to be paid at least twice a month (for most employees). If there is no set payday, the pay dates must be spaced as near as possible to equal intervals – for example, the first and fifteenth of every month. Overtime must be paid no later than the next pay period after it was accrued.
- The right to a written earnings statement (pay stub) even if you are paid in cash. It must show hours and dates worked or pieces completed payroll deductions, net wages, your name and the name and address of your employer.
- The right to be paid for all time spent doing something for your employer, including waiting time, reporting time, cleanup time, and travel time. If you have to wait on your employer at a job site you must be paid for time spent waiting. If your job requires you to travel after you get to work, you must be paid for time spent traveling.

What can my employer deduct from my wages? Legal deductions are for payroll taxes, child support, and IRS debt. Your employer can’t deduct for uniforms, tools, supplies, job-related physicals or anything else unless you consent in writing (you may have consented by signing an employee manual or other hiring document). The amount deducted cannot bring your paycheck below minimum wage. Employers can sometimes take a “credit” for meals provided on the job, but only at cost and only up to a certain amount. Check your pay stub to make sure all deductions are legal.

Do I have the right to overtime pay? Most employees are entitled to overtime pay for each hour worked over 40 in a single week. The overtime rate is 1½ times your regular hourly wage. If you make minimum wage ($7.25 per hour), the overtime rate is $10.88 per hour.

Do I have a right to paid breaks or time off? No. Most Texas employers are not required to give paid coffee breaks, lunch breaks, vacation time, sick leave or holidays. However, if offered, breaks lasting less than 30 minutes must be paid. An employer doesn’t have to pay for your lunch break if it is over 30 minutes, but you must be free from work during the entire break time. If you have a lunch break and are encouraged or required to work through it, it is not a true break and you must be paid for that time.

My employer says I’m an independent contractor. Am I? Many employers try to treat workers like independent contractors to avoid paying workers fairly and to get around the many other laws that protect employees but do not protect independent contractors. Important:

- The law says most workers are employees, not independent contractors.
- Construction workers, day laborers, domestic workers, nannies and sitters, retail workers and non-tipped restaurant workers are often called independent contractors when they are really employees.
- You can be an employee even if you get paid in cash or get a 1099 form instead of a W-2 at tax time. Whether a worker is an employee or independent contractor depends how much the employee depends on the employer for earnings and working conditions. Independent contractors still have the right to enforce their contracts and may have special rights. Consult a lawyer or workers’ center as soon as there is a problem with your pay.

Keep a record! Although it is the employer’s responsibility to keep records of hours worked and amounts paid, keep your own records and pay stubs. If you are paid in cash, record the date and amount of each payment. Get the name, address, and telephone number of the company, your supervisor, and the location where you did the work. If you work day labor, get the employer’s vehicle type and license plate.