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Snow Days and Employee Pay: A Perfect Storm for Employers?

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Oh the weather outside is frightful, so employees think staying home would be delightful . . . Their car will get stuck and they'll have no way to go . . . Let it snow, let it snow, let it snow!

Winter makes its official arrival this week, but winter weather could arrive at a moment's notice. When it snows, employers should be prepared to answer the question: "Do I get paid for a snow day?" The following is a list of commonly asked questions and the answers so employers will know how to respond to the snow:

Q: An employer closes the office because the weather outside is frightful, do they have to pay their non-exempt employees?

A: No, the state of New Jersey does not require employers to pay employees for time not actually worked.

Q: An employer closes the office because the weather outside is frightful, do they have to pay their exempt employees?

A: Yes, unless the office is closed for an entire week.

Q: Can an employer require an employee (either non-exempt or exempt) to take a vacation day if the office was closed due to weather or to take a vacation day if the office is open and the employee cannot make it in?

A: The answer to both is yes. It is up to the employer to determine how vacation benefits are accrued and used.

Q: An employer's business is open, but a non-exempt employee cannot get to work, does the employer have to pay the employee?

A: No.

Q: An employer's business is open, but an exempt employee cannot get to work, does the employer have to pay the employee?

A: Yes.

Q: What if an employer has to send non-exempt employees home early?

A: In New Jersey, if an employee shows up for work but is sent home early they must be paid the minimum "call-in pay" which is one hour at the applicable wage rate. This minimum "call-in pay" varies from state to state. However, if an employer alerts its non-exempt employees of a closure, pay is not required. As a result, it is imperative for employers to have adequate methods of alerting employees of workplace closures.

Q: What if the non-exempt employee works from home?

A: Employees must be paid for all time worked. However, if an employee spends an insignificant or "de minimus" amount of time, for example, spending less than five minutes checking work-related emails, the employee is not entitled to compensation for same.

Now that you know . . . Let it snow, let it snow, let it snow!

Attorney

- Tracy Armstrong