



Commonwealth of Puerto Rico  
**DEPARTMENT OF LABOR AND HUMAN RESOURCES**

November 21, 1997

Re: Inquiry No. 14437

This is in reply to your inquiry regarding payment for holidays under Puerto Rico labor laws enforced by this Department. Your specific inquiry is as follows:

"I would be very grateful if you could let us know by return [mail] what are the obligations of the employer as well as the employee as far as holidays is concerned.

As a matter of fact we have received today the resignation of one of our employee[s] who advised us that she will leave in one monthe [sic] e.g. on December 12, 1997.

Today she has 9 holidays pending and she asked us that the company pays [sic] those 9 days on December 12, 1997 with her salary. The company has proposed instead that she takes [sic] those 9 days between now, November 12, 1997, and December 12.

Could you please let us know how to proceed[?]

For your information, this employee has been with us since July 1995 and is now leaving Puerto Rico which self-explains her resignation. She was a part-time employee working 32 hours per week."

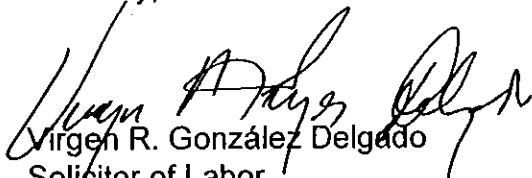
Your letter does not indicate the business activities in which your firm engages, which would in turn allow us to determine which mandatory decree applies to your firm. Nevertheless, we will attempt to provide enough information to enable you to resolve this matter. To begin with, there are only three situations in which an employer in Puerto Rico is required to compensate an employee for holidays on which no work is performed. These are the following:

1. There is an individual job contract or a collective bargaining agreement that requires such payment.
2. The employee is covered by the mandatory decree applicable to the retail trade and regularly works four (4) or more days per week.
3. The employee is paid on a fixed salary basis (weekly, semimonthly, or monthly) that does not specifically exclude payment for holidays not worked.

If the employee is entitled to holiday pay for any of the above reasons and in fact did not receive payment for those holidays, she is now due such payment at the time her employment ends. On the other hand, if payment for holidays is not required under any of the above cases, and payment is simply a fringe benefit granted pursuant to company policy, the firm is free to handle the situation as it sees fit.

We trust the foregoing is responsive to your inquiry.

Cordially,

  
Virgen R. González Delgado  
Solicitor of Labor