



Commonwealth of Puerto Rico
DEPARTMENT OF LABOR AND HUMAN RESOURCES

July 15, 1999

Re: Inquiry No. 14661

This is in reference to your inquiry pertaining to compensable travel time under the applicable labor laws enforced by this Department. Following are your specific questions, followed by our answers to each:

First of all, yesterday, June 22, 1999, I went to the Department of Labor in Bayamón and I talked with Mr. Franklin Martínez. I asked him some doubts about the overtime rates in some cases and he clarified my questions. Later I talked, by phone, with Mr. Frank La[t]orre from the Federal Department of Labor and he told me that I need to write you our doubts so you can clarify us back.

[Our firm] is a company specialized in all types of air conditioning, refrigeration, electrical and mechanical jobs. We have Electricians, Refrigeration Technicians and Helpers that brings [sic] our services around the Island. Our offices are located in Bayamón, Puerto Rico.

The doubts we have are the followings [sic]:

1. On a regular working afternoon we give our Electrician and Helper the next-working-day schedule. The schedule says that the first working service is in Isabela and they need to be there early in the morning. The Electrician always use [sic] the company car to bring the services (also the Electrician brings the company car to his home everyday [sic]). Early in the morning, the Electrician needs to pick up his Helper in [sic] a place they agree (this place can be at [the] company, in Bayamón, or the Helper's house). For example, if they go to Isabela and to other services, they finished [sic] their services, and with the company's car the employee brings back his Helper to the Company, because the Helper needs to pick up his car.

Question:

When [do] the Electrician and Helper start working, or from when [do] we need to pay the Electrician and the Helper?

- a. When the Electrician pick [sic] up the Helper.
- b. When they begins [sic] to work in the first schedule[d] place (Isabela)
- c. Or when?

When [do] the Electrician and the Helper finished [sic] their working day[,] or to what time [do] we need to pay the Electrician and the Helper?

- a. When they finished their last service.
- b. When the Electrician bring [sic] back the Helper to the Company or his home.
- c. Or when?

Answer

The issue you raise is whether or not the travel time involved is compensable time under the applicable laws and regulations. The principles which apply in determining whether or not time spent in travel is working time depend upon the kind of travel involved. To make such determinations, both the U.S. Department of Labor and this Department rely on Regulations, Title 29, Part 785 of the Code of Federal Regulations (CFR), specifically on the interpretations contained in Sections 785.33 to 785.41. We refer you in particular to Section 785.35 of the Regulations, which reads as follows:

Section 785.35 - HOME TO WORK; ORDINARY SITUATION.

An employee who travels from home before his regular workday and returns to his home at the end of the workday is engaged in ordinary home to work travel which is a normal incident of employment. **This is true whether he works at a fixed location or at different job sites. Normal travel from home to work is not worktime.** [emphasis supplied]

In the example given, thus, the employees' working day begins when they report to the job site in Isabela to perform their duties and ends upon completion of said duties.

II. Sometimes we need the employees at 8:00 am at the office in Bayamón. These [sic] days we gave [sic] them the working schedule at the office and they go to give the services all the [sic] day. The last service was in Guayama (for example) and they finished in Guayama at 5:00 pm. They didn't need to come [sic] back to the office in Bayamón. The employee was in the company car and he and the Helper lives [sic] in Caguas (for example).

Question:

From when to when where [sic] their working hours?

- a. From 8:00 am to 5:00 pm.
- b. From 8:00 am to the time they arrive [at] their homes.
- c. From when to when?

Answer

Following the previously discussed principles in Section 785.35, the employees' working day in this hypothetical situation began at 8:00 a.m., when they reported for duty at the office in Bayamón and ended at 5:00 p.m., when they completed their duties at the job site in Guayama. For purposes of this answer, it is assumed that the employees actually began at 8:00 a.m. and ended at 5:00 p.m. Should the employees actually begin earlier than 8:00 a.m. or end later than 5:00 p.m., of course, the actual starting and quitting times will determine total compensable hours.

III. [The firm] is located in Bayamón. We have one employee that lives in Gurabo (for example). This employee has one of our company car[s] and brings it everyday [sic] to his home. We told our employee that the next day he needs to be at 9:00 am in "X" Store in Ponce for one service; he doesn't need to go to the office, so he needs to arrive [at] the store directly from his house. This day, he arrived [at] the store at 9:00 am and worked in it from 9:00 am to 7:00 pm. Also, he didn't need to report to the office at the end of this day. This day he worked alone.

Question:

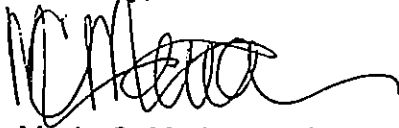
From when to when was [sic] his working hours?

Answer

Once again, the principles of regular home to work travel are controlling. Therefore, the employee's compensable hours in this example are from 9:00 a.m., when he reported for duty in Ponce, until 7:00 p.m., when he concluded his assignment in that city.

We trust the foregoing is responsive to your inquiry.

Cordially,



María C. Marina Durán
Solicitor of Labor