

## Utah Wage & Hour Law: A Short Guide for Employers and Employees

Utah's legislature has defined how employers and employees are to handle wages upon separation. Note the differences between an involuntary / lay-off and a voluntary termination.

### Termination or Lay-Off

Under Utah Code Ann. 34-28-5.

(1) (a) Whenever an employer separates an employee from the employer's payroll the unpaid wages of the employee become due immediately, and the employer shall pay the wages to the employee within 24 hours of the time of separation at the specified place of payment.

(b) (i) In case of failure to pay wages due an employee within 24 hours of written demand, the wages of the employee shall continue from the date of demand until paid, but in no event to exceed 60 days, at the same rate that the employee received at the time of separation.

In other words, if you are fired or laid off, your employer must give you your last check within 24 hours. Pay particular attention to part (b)(i). If you demand, in writing, that your prior employer pay your wages within 24 hours, and your employer fails to do so, you will continue to collect your wages until you are actually paid (whether this is at the next pay period or further down the road). In any event, you are not entitled to receive wages under (b)(i) for more than 60 days. You recover this "penalty" by filing a civil action against your employer.

### Voluntary Resignation

If the employee is at-will (not under a contract), and the employee resigns, "the wages earned and unpaid together with any deposit held by the employer and properly belonging to the resigned employee for the performance of the employee's employment duties become due and payable on the next regular payday." In other words, if you have an

employee who resigns, you are not responsible to give them their check until the next regularly scheduled pay period (which may be a week or two away).

### **Dispute over Wages Owed**

If there is a dispute over the amount of wages owed, Utah Code Ann. 34-28-6 governs:

(1) In case of a dispute over wages, the employer shall give written notice to the employee of the amount of wages that the employer concedes to be due and shall pay such amount without condition within the time set by this chapter. [24 hours if it is a termination or lay off, next pay period if it is a voluntary quit.]

(2) Acceptance by an employee of a payment described in Subsection (1) does not constitute a release as to the balance of the employee's claim.

### **Criminal Charges**

A violation of Utah's wage and hour laws results in a misdemeanor. This is a fact that employers should keep in mind. Utah Code Ann. 34-28-12.

### **Retaliation**

Finally, an employer cannot retaliate against an employee who files or participates in a wage claim dispute. Employees are supposed to be insulated from any sort of adverse actions by employers should they choose to participate, whether claiming on behalf of themselves, or assisting others in resolving wage disputes. If you feel you have been retaliated against because of such actions, you too may have a claim against the employer. Utah Code Ann. 34-28-19.

### **Miscellaneous**

The majority of wage claim disputes will be resolved by the Wage Claims Division of the Utah Department of Labor through semi-formal hearings. The Utah Department of Labor & Wage Claims Division has done an excellent job of making information available online. You can find FAQs, forms, and other guidance at their website at:

[http://laborcommission.utah.gov/divisions/AntidiscriminationAndLabor/wage\\_claim\\_unit.html](http://laborcommission.utah.gov/divisions/AntidiscriminationAndLabor/wage_claim_unit.html)

I highly encourage you to check it out. That website will answer nearly all of your wage claim questions (and will help you get started in filing a wage claim complaint if you have a dispute on your hands).

I hope you find this information helpful.

-Tyson-

<http://www.avvo.com/attorneys/84101-ut-tyson-snow-1902079.html>

<http://mumfordrawson.com/>

<http://www.socialmediaesq.com/>

<http://www.linkedin.com/in/tysonsnow>

(I'm pretty easy to find; if you have any additional questions, please let me know.)