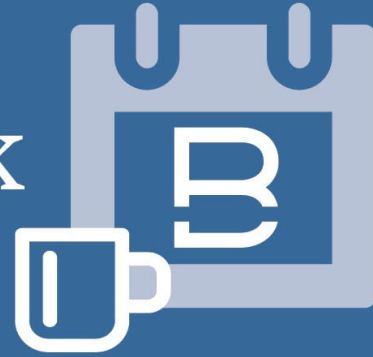


The Work Week

Bassford Remele Employment Practice Group



January 16, 2024

Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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Minnesota AG Sues Evergreen Acres Dairy Alleging Wage Theft and Substandard Housing Conditions

[Michael J. Pfau](#)

On January 8, 2024, in a sprawling complaint filed in Stearns County, Minnesota, Attorney General Keith Ellison alleges that Evergreen Acres Dairy (“Evergreen”) engaged in wage theft in the amount of at least \$3 million in total unpaid wages and overtime premiums and substandard housing conditions for employee-tenants.

Evergreen is a rural Minnesota dairy operation that employs hundreds of individuals, many of whom are from Mexico and speak English as a second language. Most of these employees have little to no ability to understand the English language. Further, Evergreen acts as a landlord to many of its employees by renting housing to them.

The Minnesota Payment of Wages Act (“PWA”), Minn. Stat. § 181.101, requires employers to pay employees on a regularly scheduled payday, at least once every 31 days. Since 2019, Section 181.101 has provided “a substantive right for employees to the payment of wages, including salary, earnings, and gratuities, as well as commissions, in addition to the right to be paid at certain times.” Minn. Stat. § 181.101(a).

The AG alleges that Evergreen systematically (1) shaved hours off of employee paystubs, (2) refused to pay employees wages for the beginning or end of employment, and (3) made deductions from wages without written authorization.

The AG also alleges that Evergreen failed to provide wage notices to employees and that it failed to make and preserve records. The Complaint continues:

Evergreen has attempted to hide the violations described above by unlawfully refusing to document most of its employment practices in writing, failing to provide employees with any of the written information about how they are paid that is required by law, and even destroying the timecards that they are required to keep by law that would show how many hours its employees actually worked.

Finally, the AG alleges that the housing in which Evergreen employee-tenants lived in grossly violated Minnesota's covenants of habitability. The Complaint lists many alleged examples and photos, ranging from unsanitary conditions to one of the homes allegedly not even having a toilet. The AG further alleged that Evergreen violated employee-tenant rights to privacy and constructively evicted employee-tenants without the notice required by law.

What does this mean for you?

While the allegations are extreme and troubling in this case, it is a good reminder to keep meticulous payroll and timekeeping records, especially for hourly employees. Employers must also maintain a regular pay period and timely pay employees. This rule also extends to commission salespeople which require "prompt payment" of their earned commissions. Minn. Stat. § 181.145, subd. 2(a). Finally, any payroll deductions should be writing between the employer and employee.

Employers should also be careful about misclassifying employees as independent contractors, which will affect their eligibility for Earned Sick and Safe Time. Failing to provide ESST when the employee is misclassified is another form of wage theft, one we expect the AG's office to investigate and prosecute.

At Bassford Remele, we have extensive experience litigating wage theft claims. We also regularly advise clients to ensure compliance with the Minnesota Payment of Wages Act and mitigate risks. Please reach out to the [Employment Law](#) practice group for guidance, questions, or further assistance. We are here to help!

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