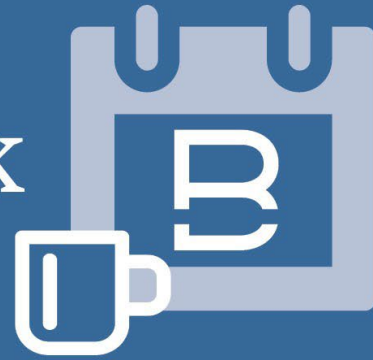


The Work Week

Bassford Remele Employment Practice Group



November 11, 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 Laws on Commissions

[Michael J. Pfau](#)

As we approach the end of the year, the push to hit sales targets is on. Sales teams across industries are in crunch mode, laser-focused on closing deals, boosting their numbers, and meeting those annual quotas. With the finish line in sight, there's an extra sense of urgency. Sales positions consistently experience higher turnover rates than most roles, which mean employers may lose some sales staff at the beginning of 2025. Minnesota law explicitly dictates how and when to pay earned commissions in such a circumstance.

First, it is vital that employers recognize whether their sales staff are employees or independent contractors under Minnesota law. You can check out our recap of whether a staff member is an employee or independent contractor [here](#).

If your salesperson is an "employee," employers are required to pay in full wages and commissions earned not later than the first regularly scheduled payday following the employee's final day of employment. Minn. Stat. § 181.14, subd. 1. If the employee is discharged, the wages or commissions actually earned and unpaid at the time of the discharge are immediately due and payable upon demand of the employee. Minn. Stat. § 181.13(a). The wages and commissions must be paid in the usual manner of payment, such as direct deposit or check.

Many sales roles are classified as independent contractors. Minnesota law defines, "commission salesperson" as one who is paid on the basis of commissions for sales who is an independent contractor. Whether the commissioned salesperson is terminated or resigns, the employer shall promptly pay the

salesperson, at the usual place of payment, commissions earned through the last day of employment. Minn. Stat. § 181.145, subd. 2(a).

If the employer terminates the salesperson or if the salesperson resigns giving at least five days' written notice, the employer shall pay the salesperson's commissions earned through the last day of employment on demand no later than three working days after the salesperson's last day of work.

On the other hand, if the salesperson resigns without giving at least five days' written notice, the employer shall pay the salesperson's commissions earned through the last day of employment on demand no later than six working days after the salesperson's last day of work.

When there is a dispute concerning the amount of the salesperson's commissions earned through the last day of employment or whether the employer has properly audited and adjusted the salesperson's account, the penalty provided in subdivision 3 shall not apply if the employer pays the amount, in good faith believes is owed the salesperson for commissions earned through the last day of employment.

If the dispute is later adjudicated and it is determined that the salesperson's commissions earned through the last day of employment were greater than the amount paid by the employer, the employer may be subject to a penalty.

If the employer fails to pay the salesperson commissions earned through the last day of employment on demand within the applicable period, the employer shall be liable to the salesperson, in addition to earned commissions, for a penalty for each day, not exceeding 15 days, which the employer is late in making full payment or satisfactory settlement to the salesperson for the commissions earned through the last day of employment. The daily penalty is an amount equal to 1/15 of the salesperson's commissions earned through the last day of employment which are still unpaid at the time that the penalty will be assessed.

The Bassford Remele Employment Law Group is here to support employers in navigating the complexities of employee departures. From addressing sensitive terminations to ensuring compliance with severance agreements, non-compete clauses, and exit protocols, Bassford's experienced team helps employers handle transitions smoothly and minimize legal risks. Please reach out with any questions.

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