

Your Right to Be Paid

NELP

Fact Sheet for Workers

Advocating for the working poor and the unemployed

January 2002

Know Your Rights

Employment Law
Clinic for Low-Wage
and Immigrant
Workers

Free legal assistance
is available by
appointment. Call:

(212) 417-3800 on
Mondays &
Wednesdays

(888) 218-6974 on
Tuesdays & Thursdays

The clinic is a joint
project with the Legal
Aid Society and MFY
Legal Services

National
Employment
Law Project
www.nelp.org

The wage and hour laws protect the rights of all workers to be paid for their work. These laws apply to both documented and undocumented workers. You may be protected by these laws even if you think you are an independent contractor.

HOW MUCH DOES MY EMPLOYER OWE ME?

You have the right to a minimum wage

The minimum wage in New York is \$5.15 an hour. Most workers are entitled to at least this amount for every hour worked. Employers may pay some tipped employees and farm workers less than the minimum wage.

Overtime

If you work over 40 hours in one work week, your employer must pay an overtime rate of one and a half times your regular rate of pay for every additional hour.

► Example: If your regular rate is \$6.00/hr, they should pay you \$9.00/hr for each hour over 40 hours.

If you are a live-in domestic worker you have a right to overtime after 44 hours of work in one work week. The overtime rate for live-in domestic workers is also one and a half times your regular rate of pay.

10 hour days mean extra pay!

Under New York law you have the right to be paid an additional \$5.15 for every day that you work over 10 hours.

► Example: If you work 12 hours in one day and your regular hourly pay is \$8.00/hr, you should earn:

$\$8.00 \times 12 = \96.00 plus \$5.15. Total = \$101.15

Prevailing rates apply on public works projects

If you are performing construction or maintenance on a government building or structure, you are probably entitled to earn the "prevailing wage." Put simply, prevailing wages are union wages. You do not need to be a member of a union to be covered under the prevailing wage laws.

Read on for the rights of tipped employees

Employers can choose to pay some tipped employees in restaurants as little as \$3.30/hr. Employers can do this only if your tips added to your cash wages are equal to or greater than \$5.15/hr. Your employer is also required to keep accurate records of the tips you receive.

WHEN SHOULD I GET PAID?

You have the right to be paid on time

Manual laborers must be paid every week. The wages for any week's work must be paid within seven days after the end of that week.

Clerical workers must be paid at least twice a month.

Left your job?

You are entitled to wages for all of the hours worked prior to leaving a job. Your employer must pay you any outstanding wages no later than the next regular pay day. You may also request to have your wages sent to you in the mail.

LAWFUL AND UNLAWFUL DEDUCTIONS FROM WAGES

Employers deduct fixed amounts of money from your paycheck for various state and federal taxes. They may also make deductions for certain employee benefits that you authorize.

Examples of legal deductions

- Federal and State taxes
- Union dues
- Health and pension benefits
- Child support payments

Employers may **not** make deductions:

- To pay for things you broke
- For poor performance
- As punishment for being late
- For the cost of purchasing and cleaning uniforms

If you are seeking to enforce your rights and are concerned about your immigration status, make an appointment to see an attorney at the Employment Law Clinic.

DOES YOUR EMPLOYER OWE YOU MONEY? HERE'S WHAT TO DO.

If you think that your wage and hour rights have been violated and want free legal assistance, call the number for the **Employment Law Clinic** on the front of this fact sheet.

You can also file a claim for unpaid wages with the **United States Department of Labor** or the **New York State Department of Labor**. The relevant offices to contact are:

U.S. Dept. of Labor, Wage & Hour Division

26 Federal Plaza, Room 3838
New York NY 10278
(212) 264-8185

NY State Department of Labor, Wage & Hour Division

345 Hudson Street
New York, NY 10014
(212) 352-6700

If your claim is for less than \$3,000 you may also file a lawsuit in Small Claims Court.

Manhattan (New York County)
111 Centre Street
New York, NY 10013-4389
(212) 347-5779

Bronx (Bronx County)
851 Grand Concourse
Bronx, NY 10451
(718) 590-3000

Brooklyn (Kings County)
141 Livingston St.
Brooklyn, NY 11201
(718) 643-5069

Queens (Queens County)
120-55 Queens Blvd
Kew Gardens, NY 11424
(718) 520-4741

Staten Island (Richmond County)
927 Castleton Ave
Staten Island, NY 10310
(718) 390-5416

See these other NELP fact sheets to learn more about your rights to wages!

Filing an claim for unpaid wages with the New York State Department of Labor

Rights Begin at Home: Protecting Yourself as a Domestic Worker

Rights of Tipped Employees

What are Deductions and Allowances?

Protecting Your Right to Be Paid—How to Keep Good Wage and Hour Records