

RFBT 03 - LABOR LAW

Clean TTS Copy - source wording and sequence preserved; visual bullets, arrows, and tables linearized for listening.

Labor Law

Basic Concepts

- LABOR LAW in its entirety covers two particular items: Labor Standards and Labor Relations. LABOR STANDARDS - provide minimum standards or terms of employment. Meaning the labor standards will be the set of rules on what an employee should be receiving at a minimum, kaya hindi pwedeng mas mababa ang natatanggap nila than that which is provided by the labor standards. - For purposes of the BE, ito lang ang cinocover. LABOR RELATIONS - group or set of rules that govern the relationship between employer and the employee, it includes the rules regarding union; remedial aspects when it comes to the law i.e., Pag ikaw ay tinanggal, saan ka magfa-file? Saan ka mag■a-appeal?

Coverage

GENERAL RULE Applicable to ALL kinds of employees.

Exceptions

Government employees. - They are covered by the Civil Service Law. - Pagdating sa salary na tinanggap nila under naman yun ng Salary Standardization Law. Managerial employees and Officers of the managerial staff. - Dahil sa word na staff nagkakaroon ng mis■connotation akala ay mababang rank pero ito yung mga CEO, COO, CRO, CFO or members of the Management Committee (Mancom). - Bakit hindi sakanila inaapply? Because they are positions of trust and confidence kaya yung rules on the labor code will not be applicable to them also. - Also the benefits that they receive are usually higher already than that of the labor standards (hindi sila minimum wage).

Field personnel and Workers who are paid by results. - They are not under close supervision. - Ang kanilang ay trabaho ay output-based. - Hindi sila covered ng labor standards dahil hindi naman sila closely monitored unlike those that actually report to the office and yung may required working hours na usually ay 8 hours a day. Persons in the personal service of another. - Personal and Executive Assistants. - Their work is normally driven by the demands of their boss. Domestic helpers. - Politically correct term "kasambahay". - Hindi sila covered kasi under sila ng Kasambahay Law. Members of the family of the employer who are dependent on him for support.

- Employed by their benefactors. - e.g., May negosyo ang mga magulang mo at pinagbabantayan ka, more than 8 hours ang trinabaho mo, hindi ka pwedeng mag-ask ng OT.

Night Shift Differential Pay and Overtime Pay

Normal Hours

Of Work

- Should not exceed 8 hours (max). PREMISE: Hindi pinagbabawal na mas mababa sa 8 hours.

Hours

Worked

(compensable)

Two Parameters To

Determine Hours Worked

Required to be on duty or to be at a prescribed workplace. - Dahil sa lugar. - Whether may ginagawa ka o wala, basta nandon ka sa workplace dapat may sweldo ka. Suffered or permitted to work. - "Made to suffer work" - DOLE - Hindi nagmamatter kung ikaw ay nasa workplace o wala, basta sumasahod ka. - Applicable pa rin kahit hybrid. Short duration of rest is still compensable in character. - Coffee break/ 15-min break

Meal Period

- Not < 60 minutes. - Minimum lang, kaya pwedeng mas mahaba. - Hindi compensable ang meal periods. - Hindi na sinasama sa benefits.

Health

Personnel

- The labor code provided na supposedly 8 hours, 5 days a week. This is applicable when the population in the area would be at least 1M or bed capacity would be at least

100.

Exception

- If there are exigencies or emergencies that would need to be attended to, the health personnel may be required or compelled na magtrabaho nang 6 days or 48 hours. - There is additional compensation of 30 percent kasi this will be considered as work performed on a rest day (6th day).

Night Shift

Differential

PAY

Rate: 10 percent

- As long as the work is done within the period of 10PM - 6AM, entitled sa Night Shift Differential Pay. - Minimum lang ang rate kaya pwedeng taasan ng employer. - Take note na as long as the work is performed within 10PM-6AM hindi na magmamatter kung part man yan ng regular shift or OT. - Meyrong night diff kapag pumasok sa 10PM - 6AM.

e.g., times employee; 800/day or 4pm - 1am (Regular

Shift) or 8pm-9pm (Lunch Break) 9 hours work Hourly Rate: $800/\text{day} \div 8 \text{ hours (1 hours break)} = 100$ hourly rate 8 hours worked - 4PM - 1AM siya nagtrabaho and to be entitled to the NSD dapat pumasok sa 10PM - 6AM na period. Kaya hahanapin sa shift niya ilang oras ang pumasok sa 4PM - 1AM, which is 3 hours (10PM -

11Pm; 11Pm - 12Am; 12Am - 1Am)

To compute NSD: 100 Hourly rate times 10 percent NSD rate 10 NSD/hours times 3 NSD Hours

Pesos 30 Nsd

- Ang rationale bakit may night diff pay ay dahil yung 10PM - 6AM ay the normal hours that we are supposedly asleep. Kaya kapag ikaw ay nagtrabaho pa during that time ay kakailanganin ng additional effort on your end, kaya kailangan may additional pay rin na natatanggap for the additional efforts that you are providing. - Note that kahit regular shift ni times ang 4PM - 1AM ay tumatanggap pa rin siya ng NSD pay ay kasi nga ang parameter lang naman ay basta pumasok sa 10PM - 6AM na period. - Let's say nagtrabaho pa si times nang 1AM-2AM, may OT siya. Kapag nag-OT on a regular day, entitled sa 25 percent additional compensation. To compute OT: 100 Hourly rate

X 125 percent OT rate 125 OT/ hours times 1 hours 125 OT - Take note that 1AM - 2AM is still within the 10PM - 6AM. Ano ang gagamitin na rate in computing the NSD pay for the 1AM - 2AM period? Is it the usual 100 per hours na matatanggap o the 125 na may premium na for the OT na nirender? OT rate. To compute NSD: 100 Hourly rate times 125 percent OT rate 125 OT/hours times 1 hours 125 OT times 10 percent NSD rate

12.5 NSD

Total Addt'L Compensation: 125 (Ot) + 12.5 (Nsd) = Pesos 137.5

- Thus, kahit may OT na basta pumasok sa 10PM - 6AM na trabaho. At ang ginagamit na rate in computing the NSD will be whatever the effective rate applicable at that time is. Dahil ito OT na, the OT rate should be the one that we should use as the basis for 10 percent NSD pay.

Overtime Pay

(beyond 8 hours)

Regular Working Day 25 percent

REST DAY or HOLIDAY (Regular and Special Holidays) 30 percent

Emergency Overtime Work

Required by the employer to perform overtime.

GENERAL RULE Rendition of overtime will be voluntary in character.

Exceptions

War or when national or local emergency. To prevent loss of life or property; imminent danger to public safety. - e.g., Work-related to rescue operations. There is urgent work to be performed particularly with regard to machineries, installations or equipment of the employer in order to prevent serious damage or loss. - e.g., Work-related to maintenance. May nasira na machine and 24 hours ang operations ng factory, pwedeng i-require ng employer na mag OT. In order to attend to perishable goods. - e.g., Employee of a manufacturing company, late na dumating ang RM pero perishable. Completion or continuation of the work started before the 8-hours. - Meaning nasimulan na ang trabaho at magkakaroon ng obstruction sa trabaho kung hindi tatapusin just because natapos na ang normal hours of work. Nasimulan na, tatapusin lang. - e.g., May engagement and the report is due tomorrow morning already. Nasimulan na ang report pero hindi pa rin natatapos ng team.

NOTE: Regardless na compelling man or may reason to compel the

employee to perform OT work, meyon pa rin dapat additional compensation na 25 percent or 30 percent, whichever rate is applicable. ADDITIONAL NOTE: When we talk about OT, we refer to the working day not the calendar. Calendar day starts at 12:01 and ends at 12 midnight. Pero pag working day, starts kung anong oras ang simula ng trabaho mo until the minute before that on the following day. - e.g., 8AM ang start ng work mo, ang magiging working day mo ay 8AM - 7:59AM of the following day. Kaya lumagpas man ng calendar day, working day mo pa rin yan. - At kapag nagtrabaho ka within 12:01 to 7:59AM meyon pa rin yang OT pay. - Kaya ang reference when it comes to overtime will be that of the working day not the calendar day.

Weekly Rest

DAY - Minimum of 24 hours kapag ikaw ay naka 6 consecutive normal work days already. - Ang rule rito ay para masigurado na meyon talagang pahinga ang empleyado.

General Rule

Determination of the Rest Day rests with the employer.

Exceptions

If may Collective Bargaining Agreement (CBA), which is essentially a contract between the employer and the employee. Kung may rules ang DOLE that will provide in determining the work rest day of the employees. Religious grounds, this will be the only time that the employee can insist kung ano ang magiging rest day niya.

When Work May Be Required On Rest Day

In case of emergencies related to fortuitous events (serious accident, fire, flood). There is urgent work to be performed particularly with regard to machineries, installations or equipment of the employer in order to prevent serious damage or loss. If there is abnormal pressure of work due to special circumstances.

e.g., Audit busy season

In order to attend to perishable goods. When the nature of the work requires continuous operations. Any other circumstances.

NOTE: Regardless na compelling man or may reason to compel the

employee to perform rest day work, meyon pa rin dapat additional compensation which is 30 percent. Ganito rin ang rate kapag Special Holiday, 30 percent na rin. If no regular rest day, Sunday (default) in a generic sense, will be provided a 30 percent additional compensation.

NOTE: When there is SPECIAL HOLIDAY and at the same time ay REST

DAY pa, ito lang yung hindi magpapatong. Nagiging 50 percent ang compensation instead of dalawang 30 percent.

e.g., 100/ hours (800/day); M-F (regular shift); Sat-Sun (rest days); Saturday 8AM

- 12nn: 4 hours - Magkano ang tatanggapin for a work performed on a Saturday (rest day)? Kung 100/hours ang usual rate na mayron ka, if you perform work on a rest day ay dapat entitled ka to a 30 percent premium. Ibig sabihin ang magiging rate mo for the rest day work that you perform should be 130/hours, kaya kung 4 hours ang trinabaho mo, the 130/hours should be Pesos 520, not just 400, kasi nga may additional compensation for work that is performed on a rest day. To compute for RD/ SH: 100/hours (Hourly rate) times 130 percent (RD/ SH rate) 130 per hours times 4 (Hours worked) 520 RD/H - Paano kung nag-OT on a Saturday (Rest day)? To compute RD with OT: 8AM - 5PM -RD 8 hours means 100/hours times 130 percent (RD rate) times 8 hours = 1,040

5PM - 6PM - OT (1 hours) means 100/hours times 130 percent (RD) times 130 percent (OT rate) times 1hr = 169 9 hours
TOTAL ADD'L COMPENSATION Pesos 1,209

*Again, if OT is performed on a regular day, 25 percent, but if performed on a rest

day/ holiday, 30 percent. - What if it's not Saturday but a Special Holiday? Magkano ang matatanggap for 8AM - 6PM?
SAME lang kasi ang Special Holiday, 30 percent din ang premium and ang OT on a holiday is 30 percent also.

Holiday Pay

REGULAR HOLIDAY: If hindi ka pumasok, entitled ka pa rin to 100 percent of your salary. If nagtrabaho ka, nagiging 200 percent (double pay). - Holiday pay is not mandatory with regard to retail and service establishments regularly employing less than 10 workers.

Holidays Provided In Labor Law

means Hindi ito nagbabago regardless of the proclamation order.

■ **New Year'S Day - Januar 1**

■ **Maundy Thursday**

■ **Good Friday**

■ **Araw Ng Kagitingan - April 9**

■ **Labor Day - May 1**

■ **Eid'L Fitr - Varies Per Year**

■ **Independence Day - June 12**

■ **Eid'L Adha - Varies Per Year**

■ **National Heroes Day - Last Monday Of August**

■ **Bonifacio Day - November 30**

■ **Christmas Day - December 25**

■ **Rizal Day - December 30**

■ **The Day Designated By Law For Holding A General**

Election

No Holiday

PAY Absent on the day prior a regular holiday. - e.g., June 12 (Wed), Independence Day, then June 11 (Tue) absent, walang holiday pay for June 12. Absent on the day prior to successive regular holidays. - Normally on Maundy Thursday and Good Friday pero Wed nag-absent, pareho na Thurs and Fri walang matatanggap na holiday pay. Absent on the day prior to his rest day or special holiday. - e.g., Wed (regular holiday), Tue (rest day) and Monday absent, Monday ang last working day, supposedly bago mag-holiday absent, walang entitlement to the regular holiday pay. Absent without leave on the day prior to successive regular holidays but worked on the first

holiday, entitled to holiday pay for the following day. -Maundy Thursday, Good Friday, and Weds absent, may holiday pay when it comes to the Good Friday. One rule to remember: On the last working day before the holiday, nag■AWOL (Absent WithOut Leave); Ang nagiging premise ay parang penalties.

Regular Vs. Special Holiday

Regular Holiday Special Holiday

Compensable even if unworked Not compensable if unworked. Generally limited to the 10 enumerated in the Labor Code plus two Muslim holidays. Not exclusive since a law or ordinance may provide for other special holidays. Observed throughout the country. There may be special holidays which are observed only in one locality. Rate twice (200 percent) if worked. Rate is 130 percent. - Nothing prevents the employer from providing compensation kahit special holiday, but in all technicalities, walang compensation kapag hindi pumasok ng special holiday. Kaya ang nagiging technicality lang when it comes to special holiday ay hindi ka pwedeng i-compel na pumasok pero hindi ka dapat

entitled sa sweldo unless otherwise provided by the employer. - Regular Holiday: Hindi sinasama yung excluded general election sa bilang ng holidays kasi hindi naman siya annually.

Double Holiday

Dalawang regular holiday ang nagsabay. Madalas nangyayari kapag yung Maundy Thurs/ Good Friday ay tumapat sa Araw ng Kagitingan. Kaya kapag nagsabay: - Not worked - 200 percent - Worked - 300 percent Hindi nawawala ang additional compensation ng regular holiday just because sumabay sa ibang regular holiday. - Paano kapag REGULAR HOLIDAY at OT? 100 Hourly Rate times 200 percent RH means Kasama sa concept na nagpapatong-patong ang mga benefits times 130 percent OT 260/hours - Paano if REGULAR HOLIDAY, REST DAY and OT? 100 Hourly Rate times 200 percent RH means Kasama sa concept na nagpapatong-patong ang mga benefits times 130 percent RD times 130 percent OT 338/hours

*DH - double holiday

*All of these are minimum, nothing prevents the employer from providing a

higher premium rate than what is provided under the Labor Code. - Incidentally, for tax purposes, lahat ng natatanggap na ito ay regular compensation lang, kaya they are immediately taxable except kapag minimum wage earner kasi lahat naman yan ay exempt.

Leave Credits

Service

Incentive

Leave

- Minimum period of 5 days kapag naka-1 years na. - Hindi nagmamamatter kung full-time or part-time, basta naka-isang taon na entitled na. - Only one provided in the labor code. SIL vs. VL/SL - Normally, VL/SL is provided for by the employers as part of the benefits being employees to them. These are highly dependent on the policy on the employer. There is no law that governs the VL/SL grant. Kaya whether they will be convertible to cash or not; cumulative; # of days that you are entitled to ay employer dependent lang.

Service Incentive Leave Vacation/ Sick Leave

Mandatory labor standard. Voluntary; may result from employer's discretionary policy or CBA. Intended to alleviate the economic condition of the workers. - Hindi siya papasok pero hindi dapat mababawasan ang sweldo ni employee. Intended to afford a labourer a chance to get a much-needed rest. May not be waived. - Kasi provided for by law as a minimum labor standard. May be impliedly waived through acquiescence. - Can be subjected to waiver kasi depende lang sa policy ni employer. Commutable (convertible) to cash. Can be made commutable to cash. - Depending on the policy of the employer.

Paternity Leave

(special law) - # of days ay 7 days lang. - Married and father dapat; cohabiting. - If separated, hindi entitled to paternity leave. - Maximum availment: 4 deliveries, inclusive of any miscarriage or emergency termination of birth. - Required to notify the employer the expected date kung kelan magdedeliver ang asawa (procedural requirement).

Conditions

- Employed at the time of delivery of his child. - Notified the employer of the expected delivery date (except miscarriages or abortion) - Wife has given birth, suffers miscarriage, or an abortion.

Availment

- Not later than 60 days after the date of birth. - Hindi pwede na 60 days na yung bata bago palang mag-avail.

Coverage

- Not convertible to cash and not cumulative.

Solo Parent

Leave

- 7 days with pay; non-cumulative. - To attend to the needs of their child. - Service of at least 6 months (1 years before (Codal)) - Non-consecutive.

Vawc Victims'

Leave

- 10-day period. - Babae at mga bata lang; no violence against men and their children. - Basta may relationship macocover ng VAWC. - To attend medical and legal concerns. - Non-cumulative and non-convertible to cash.

Special Leave

Benefits For

Women

- 2 months; given to women who are recovering from surgery caused by gynecological disorders.

Maternity Leave

(RA no. 11210) A female worker who is a member of the SSS is entitled to the following leave incentives: - 105 days with full pay. - If solo parent: Additional 15 days - At her option: Additional 30 days, without pay - Miscarriage or emergency termination of pregnancy: 60 days leave with pay

Summary Of Leave Credits

Type Of

Leave

Of Days Cumulative? Covertible

To Cash?

Service Incentive Leave 5 days No Yes Paternity Leave 7 days No No Solo Parent Leave 7 days No No

Vawc

Victims' Leave 10 days No No Special Leave for Women 2 months No No

*SIL - Allowed na maging cumulative kung sakaling hindi na convertible to

cash. Allowed na magkaroon ng agreement ang ER at EE na instead na maging convertible to cash, gawing cumulative nalang, either/or lang.

13Th Month Pay

- 1/12 of the total basic pay for the entire year.

Formula: Basic Pay times # Of Months Worked/ 12 Months

PAYMENT: Anytime not later than Dec. 24. - Hindi kailangan na catholic para lang maging entitled. ENTITLEMENT: At least 1 month; and All rank-in-file employees are entitled. - Not mandatory to be given to managerial, supervisory employees. FORM: Cash. NOT VALID SUBSTITUTES: Free rice, electricity cash, stock dividends, cost of living allowances.

Summary

% Of Compensation

NSD 10 percent

Ot-Regular 25 percent

Ot-Rd 30 percent

RD or SH 30 percent

Sh + Rd Not 60 percent 50 percent

Rh Worked 200 percent

Not Worked 100 percent

Dh Worked 300 percent

Not Worked 200 percent