

Publications

Massachusetts Employers Are Now Strictly Liable For Treble Damages for Late-Paid Wages

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In April 2022, the Massachusetts Supreme Judicial Court held that employers are **strictly liable** under the Massachusetts Wage Act for treble damages when making late final wage payments.

The Wage Act requires that employers pay employees all wages owed on the date of termination. Employees who resign must be paid all wages on the next regular payday. This requirement to pay all “wages” owed includes accrued, unused vacation and certain commission payments. Failure to comply with these deadlines results in mandatory awards of treble damages and attorneys’ fees. As the recent case of *Reuter v. City Methuen* demonstrates, it does not matter under the act whether the employer is one day or one year late in providing an employee with their full final pay.

In *Reuter*, the city terminated Beth Reuter for misconduct. At the time, Reuter had accrued \$8,952.15 of unused vacation time. The city did not pay her the accrued vacation time when she was terminated. But it did pay the full amount three weeks later. About a year later, Reuter’s attorney sent a demand letter for \$23,872.40, representing a trebling of the late vacation pay and attorney’s fees. The city recognized it had failed to timely pay the vacation time, so it sent a check for an additional \$185.42, representing trebled interest for the time between her termination and date when the vacation time had been paid. Reuter then sued, claiming she was entitled to treble unpaid wages, not treble interest.

The Supreme Judicial Court ultimately agreed, finding that the “late payments constitute clear violations of the statute.” The Court explained that the Wage Act is designed to protect employees, who may suffer “severe consequences” because of a delayed final paycheck, and so the Act “does not tolerate or in any way condone delay.” Thus, “employers rather than employees should bear the cost of such delay and mistakes, honest or not.” To that end, the Court held that “the statute leaves no wiggle room” and that “the remedy is also explicit.” “The Legislature’s command is clear: if you choose to terminate an employee you must be prepared to pay him or her in full when you do

so.” Any failure to pay final wages, including vacation pay, makes the employer strictly liable for treble damages on those wages.

The Court did “recognize that this rule puts employers in a difficult position when immediately terminating employees for misconduct as in the instant case. Because wages and other benefits are due to employees on the day they are discharged, and it may be unclear how much an employee must be paid on short notice, employers would be liable for treble damages if they miscalculated the amount owed.” This may mean that employees should be suspended – with pay – rather than terminated for a short period of time until the employer can comply with the Wage Act’s final pay requirements.

Employers in Massachusetts now face significant exposure for late final wage payments. Failing to pay the terminated employee in full on the day of termination will automatically result in treble the amount of unpaid wages as damages. And, there is no good faith defense. Employers should review their policies and procedures to ensure they are immediately paying employees their final wages in full upon termination. Contact your Vorys lawyer if you have questions about state final pay requirements.