



New York State Department of Labor
Eliot Spitzer, Governor
M. Patricia Smith, Commissioner

September 11, 2007

Re: Request for Opinion
Payment of Wages - Labor Law §191
File # RO-07-0092

Dear [REDACTED]:

I have been asked to respond to your letter of August 31, 2007 in which you ask whether 12 NYCRR §142-2.2 includes a requirement analogous to the federal requirement that minimum wages be paid promptly and whether failure to pay a manual worker at least once a week in violation of Labor Law §191 violates that requirement.

There is no provision in federal or New York State minimum wage statutes or regulations stating when minimum wages must be paid. For purposes of federal law, the federal courts have held that the Fair Labor Standards Act (FLSA) requires, by implication, that wages be paid promptly.

New York State's minimum wage statutes and regulations contain no requirement that minimum wages be paid within a certain time frame, and the State courts, unlike the federal courts, have not found any such requirement by implication. However, Labor Law §191(1)(a) explicitly states that a manual worker must be paid all wages (which would include minimum wages) due and owing "weekly and not later than seven calendar days after the end of the week in which the wages are earned."

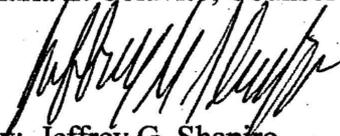
Therefore, your statement that "New York's minimum wage rules are deemed to include a requirement analogous to the requirement in federal law that the minimum wage due and owing to an employee must be paid promptly," is incorrect. An employer who fails to pay a manual worker's wages, minimum or otherwise, within the time frame set by Labor Law §191 is in violation of that statute.

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This opinion is based on the information provided in your letter of August 31, 2007. A different opinion might result if the facts provided were not accurate, or if any other relevant fact was not provided.

Very truly yours,

Maria L. Colavito, Counsel



By: Jeffrey G. Shapiro
Senior Attorney

JGS:

cc: Carmine Ruberto