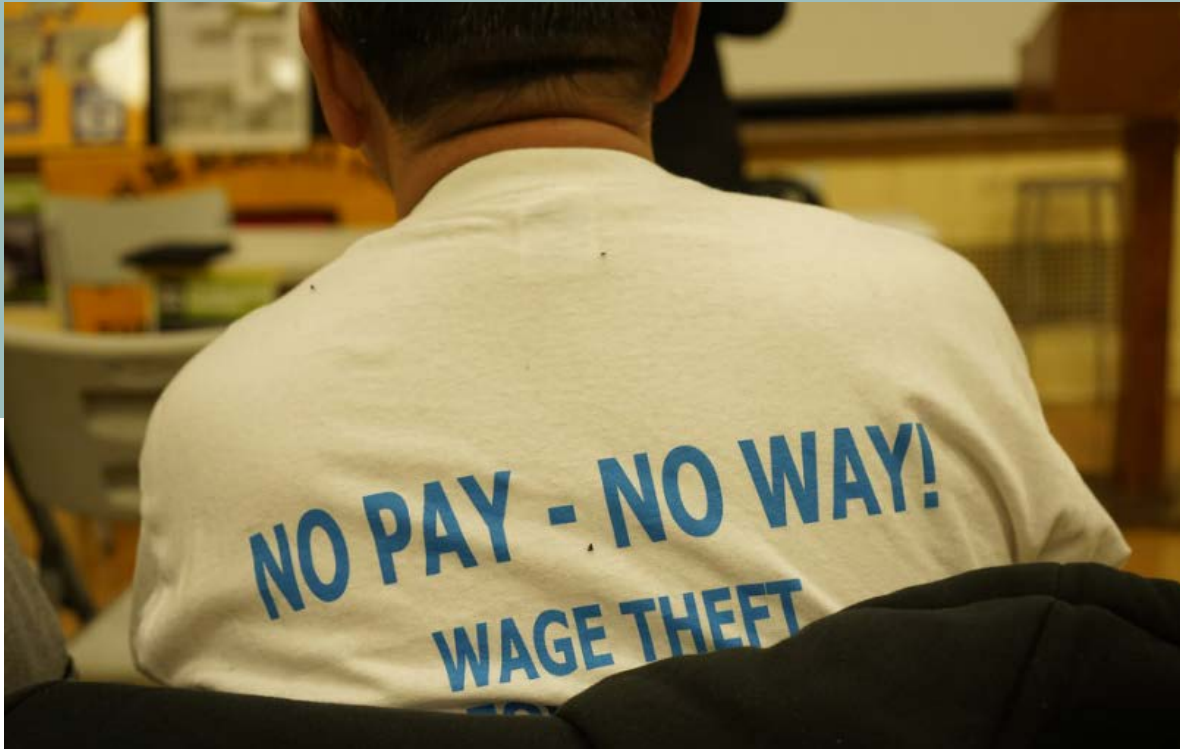


KNOW YOUR RIGHTS WAGE THEFT



Project Luz via flickr Creative Commons

Hawai'i Worker's Center

MINIMUM WAGE



Uusc4all via flickr Creative Commons

MINIMUM WAGE

- Hawai'i: \$10.10/ hour
- Federal: \$7.25/ hour

Even if you are paid by the day, job, or by piece rate, your average hourly wage must be at least minimum wage



Paul Sableman via flickr Creative Commons

OVERTIME

“A token of my appreciation for all the late hours you’ve been putting in. It’s a nightlight”

“I’m afraid you have to stay late tonight. You need to attend a training on work life balance.”

OVERTIME

If you work over 40 hours a week, you must be paid 1.5 times your hourly wage for every hour worked over 40.



TIP STEALING

- Minimum Wage: \$10.10/ hour
- Maximum tip credit: \$0.75/ hour
- Tipped Minimum Wage: \$9.35/ hour
- Employers may take the maximum tip credit if the tipped MW + tips = \$7/hr over the MW (\$17.10/hr)
- Tip splitting or pooling: amounts actually received by ea employee is considered tips
- If employee works in more than one job, tip credit may be taken only for hours on the job where employee earns more than \$20/mo in tips



Dave Dugdale via Creative Commons

HOURS

Time that is suffered or permitted by the employer is work time and must be paid, even if it's not “requested”



Tom Blackwell via flickr Creative Commons

WAIT TIME

- Waiting to be engaged = Not Work

Completely relieved from duty, told you may leave the job, and do not have to return until a specified time

- Engaged to wait = Work \$

Unpredictable, short duration, can't use the time for own purposes, controlled by the employer, waiting is an integral part of the job.



No More Plains via flickr Creative Commons

ON CALL TIME

- Required to remain on call on premises or close to = \$ Work
- Being on call at home or leaving a message about where you can be reached = Not work
- Additional limits on an employee's freedom could require the time to be paid.



REST & MEAL PERIODS

- Rest breaks (coffee, snack) of a short duration = \$ Paid
- Meal Periods, usually 30 minutes or more = Not Paid
- Employee is working if she is required to perform any duties, active or inactive, while eating.
- Hawai'i has no mandatory break or meal requirements



Daniele Zanni via Creative Commons

TRAINING & MEETING TIME

Time that is mandatory & directly related to the worker's job must be paid.

- Not work if:
 - Outside normal hours
 - Voluntary
 - Not directly job related
 - No other work is concurrently performed



DFAT photo library via Creative Commons

TRAVEL TIME

Time spent travelling during work for the benefit of the employer must be paid.

- Home to work = Not Work
- Work to home = Not Work
- Job site to Job site = \$ Work



ILLEGAL DEDUCTIONS

Employer cannot deduct or withhold from your wages unless:

- required by law or court (taxes, child support orders),
OR
- worker agrees in writing & they are for the benefit of the worker



ILLEGAL DEDUCTIONS

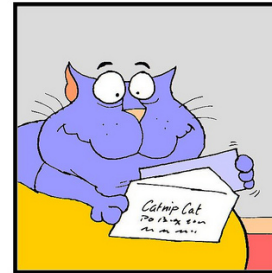
Your employer may not deduct:

- Fines
- Cash shortages in shared or common cash register
- Penalties or replacement costs for breakage
- Losses due to faulty workmanship, lost or stolen property, damage to property, or default of customer credit or nonpayment for goods or services, *unless due to the willful or intentional disregard of employer's interest*
- Medical or physical exam expenses for employee or prospective employee, required by the employer or by law
- Job application processing fees
- Uniforms when required by employer

PAYMENT OF WAGES

PAYDAYS

- 2x a month on regular paydays
- Designated in advance
- By cash, check, direct deposit, or pay card (pay cards are highly regulated)
- If you are discharged → paid the next working day.
- If you quit → paid the next regular payday
- If you give 1 pay period notice → paid when you quit



MY FIRST PAY CHECK!



HEY! I'M BEING PAID PEANUTS!!!

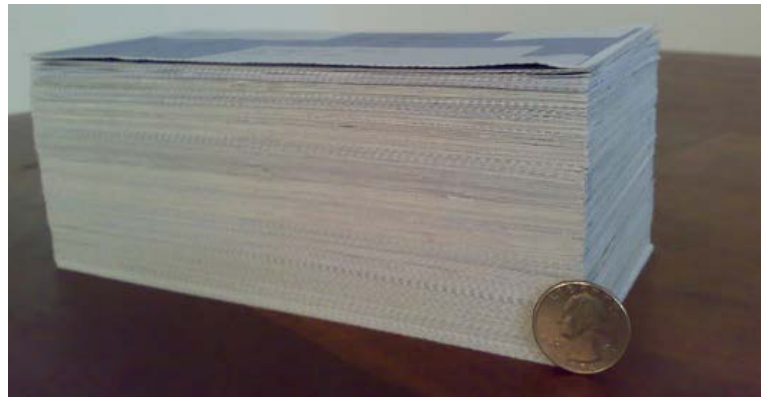


I DISTINCTLY SAID SARDINES!

Jeff Hoyle via flickr Creative Commons

PAY STUBS & RECORDS

- Written Notice At Hire: rate of pay, day, hour, and place of payment
 - Vacation and sick leave policies
- Paystub: (1) Employer; (2) Employee; (3) Pay period; (4) Gross compensation; (5) Amount and purpose of each deduction; (6) Net pay; (7) Date of payment
- Employers must maintain payroll records for 6 years



RETALIATION

Your employer cannot discharge, discriminate, or retaliate against you for exercising your wage and hour rights.

Exercising your rights includes:

- Complaining to the employer, dept of labor, or any other person
- Filing a lawsuit
- Testifying in investigation
- Otherwise exercising your rights



Chicago Workers Collaborative via Creative Commons

RETALIATION

- Reducing your hours
- Reducing your pay
- Demoting or transferring you to a less desirable position
- Making your work schedule more difficult
- Verbal or physical abuse
- Firing you

UNDOCUMENTED WORKERS' RIGHTS

- Wage and hour laws apply to all workers regardless of immigration status.
- Although undocumented workers do not have legal work authorization, once they perform work they are entitled to be paid for that work.
- But damages may be limited
 - If employee is fired, cannot get back pay for time an employee would have worked if he had not been illegally discharged
 - If the employer knowingly hires an undocumented worker, or if the employer discovers a worker is undocumented and continues employing them

CASE STUDIES

Can you spot wage theft?

Hawai'i Worker's Center

RESTAURANT SERVER

Yoko just got hired to work as a server at a restaurant.

Her manager tells her she will be paid \$9.00 per hour.

During Yoko's first week of work she has to come in 1 hour before each shift to shadow another server before the start of each shift. But she won't be paid for those hours because it's considered training time.

During Yoko's first month, she seems to average about \$45 in tips for a 6 hour shift. Yoko is disappointed because she thought she would be making more in tips.

CONSTRUCTION WORKER

Sergio works as a construction worker for \$14/ hour.

Sergio works at 2 different job sites (an apartment & a hotel) for the same subcontractor. At the apartment he works Mon, Wed, Fri from 7am to 3pm. At the hotel he works Tues, Thurs, Sat 9 am to 5 pm. He is paid \$672.00 a week in cash.

Sometimes Sergio's employer pays him in check if he doesn't have cash but asks Sergio to wait 14 days to cash the check because the account is low on funds and is waiting for payment from the general contractor.

One day the drill he is using breaks, so his employer withholds \$150 from his pay that week because he says it's Sergio's fault so he has to pay for a replacement.

Sergio complains to his employer saying he should get his full pay and that the drill was just old and it wasn't his fault. The next week his manager puts out a new schedule and Sergio is only working 4 hours a day instead of 8.

HOTEL HOUSEKEEPER

John works at a hotel in Waikiki. He is paid \$10.00 per hour.

John's work schedule is Tuesday through Saturday from 8am – 4pm. He is required to clean 10 rooms a day. But, it takes him about an hour to clean each room so he ends up working until 6pm almost every day. If John doesn't finish his 10 rooms, he works extra hours because he feels like it's his fault for being slow and not meeting the room quota.

He is paid \$800 every 2 weeks.

On Sundays John has to come in for an hour long staff meeting, but he is not paid for that time.

A few times a month, he shows up to work and is sent to the Ko'olina hotel branch because they are short staffed. He is only allowed to clock in when he arrives at the hotel in Ko'olina, a 45 minute drive away.

WHAT CAN I DO?

Know Your Rights!

Hawai'i Worker's Center

BOSSES STEAL BILLIONS FROM WORKERS. HERE'S HOW ONE WOMAN FOUGHT BACK.

<https://www.youtube.com/watch?v=wYARrSqsYY4>

6:36

KEEP GOOD RECORDS



- Write down the agreement you have with your boss (job title, pay rate, work schedule).
- Keep a calendar of your hours, note the time you start and finish work each day.
 - USDOL has a timesheet app you can download onto your phone.
- Keep your paystubs and review them.
- Keep all contracts, letters, or notices from your employer.
- Take photos of your job site, license plates.

TAKE CONCERTED ACTION

You have the right engage in concerted action for mutual aid or protection.

- If you talk to your employer about a workplace problem go with a co-worker, or on behalf of others
- Employers can't interfere with, restrain, or coerce this right.
- Both union & non-union workers have this right.



FILE A WAGE CLAIM

HAWAII DEPT. OF LABOR & INDUSTRIAL RELATIONS WAGE STANDARDS DIVISION

830 Punchbowl Street, Room 340

(808) 586-8777

dlir.wages@hawaii.gov

www.labor.hawaii.gov/wsd

6 years to file a minimum wage or overtime claim

1 year to file an unpaid wages claim

U.S. DEPT. OF LABOR WAGE & HOUR DIVISION

300 Ala Moana Blvd, Room 7225

(808) 541-1361

www.dol.gov/whd

2 years to file a wage claim. 3 years for willful violations.