

Final Wages Owed to Virginia Employees Must Be Paid

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By John V. Berry, Esq., www.berrylegal.com

In the Commonwealth of Virginia former employees are entitled to all of their previously earned wages, even if they are terminated from employment. However, for various reasons sometimes employers attempt to avoid paying the last paycheck owed to a former employee. There are many reasons that this occurs. Perhaps there are hard feelings or other issues related to the termination. However, the non-payment of wages owed can cause significant hardship for an employee and can be a costly mistake for an employer. There are laws and regulations that govern the issues related to the nonpayment of wages in the Commonwealth of Virginia.

Final Paychecks Must Be Paid in a Timely Manner

An employer generally should pay a former employee's final paycheck by the next pay period. Some state laws vary on this issue, but failure to make prompt payment can violate a number of wage and overtime laws on a state and federal level. State wage laws can cover non-payment and federal laws, such as the [Fair Labor Standards Act](#) (FLSA), can cover non-payment of overtime.

Virginia Law on Owed Wages

The [Virginia Code § 40.1-29](#) provides that final payments to a terminated employee should be made on or before the employee would have normally been paid had the employee not been terminated. Virginia law imposes civil and criminal penalties for the non-payment of wages by an employer. The Virginia Code further prohibits employers from deducting portions of a final payment without the former employee's consent with the exception of standard taxes and withholdings.

States often vary on the issue of whether a former employee is entitled to receive accrued vacation or sick leave upon an employee's departure. Virginia law has taken the approach that fringe benefits such as vacation/annual/holiday leave, sick leave or severance pay are not required to be paid out by a former employer. In addition, Virginia employers may decide to establish any policy or no policy regarding fringe benefits at the termination of an employee.

If an employee in Virginia is confronted with non-payment of final wages, the employee can contact the [Virginia Department of Labor and Industry](#). The Virginia Department of Labor and Industry may assist an employee in obtaining payment of final wages after the employee files a complaint, but it does not handle claims for wages over the amount of \$15,000. Additionally, the failure to pay wages can be pursued in court.

Federal Overtime Laws

The FLSA is a federal law which governs the payment of overtime to employees. When an employer does not make timely payment of a final check which includes overtime, there could be a FLSA violation which could be costly for an employer in terms of damages. If the payment of lost wages involves unpaid overtime, the [United States Department of Labor, Wage and Hour Division](#) may be contacted and an investigation may be initiated for FLSA overtime violations by the former employer. Additionally, the failure to pay overtime can also be pursued in court.

Conclusion

We represent employees and employers in regards to non-payment of wages in Virginia. If you need legal assistance, please contact our office at (703) 668-0070 or at www.berrylegal.com to schedule a consultation. Please also visit and like us on Facebook at www.facebook.com/BerryBerryPllc.

Attorneys

John V. Berry

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