
When Can Exempt Employees Be Made to Pay for Damaged Equipment or Goods?

Employers often become frustrated when accidents or negligence cause expensive damage. The first response is often to want to make an employee pay for the damage. However, deducting damage costs from an employee's paycheck is governed by the Fair Labor Standards Act (FLSA) and state laws on bill collection and garnishment.

According to the FLSA, employers may not dock the pay of an exempt employee to cover the costs of damaged or lost equipment. Use of either payroll deductions or out of pocket payment violates the salary basis requirement for exempt employees because it reduces the predetermined salary which may not be reduced due to the "quality or quantity of the work performed". There are six allowable deduction categories for exempt employees:

- (1) An absence from work for one or more full days for personal reasons other than sickness or disability. The deduction can come from paid personal leave or it can come from the paycheck based on a daily rate.
- (2) An absence from work for one or more full days for sickness or disability, and a deduction is made under a bona fide sick leave plan, policy, or practice or a workers' compensation plan.
- (3) A penalty (fine or day of pay, etc) can be imposed in good faith for infractions of posted, established safety rules of major significance.

- (4) A disciplinary unpaid suspension can be imposed in good faith for infractions of certain workplace conduct rules.
- (5) Deductions for leave under the Family and Medical Leave Act if the employee has no accrued paid leave that can be used under the employer's leave policies.
- (6) The employee is absent the entire workweek or performs absolutely no work during an entire workweek as defined under the FLSA.

In short, any other unmentioned deductions would violate the salary basis test.

For hourly wage employees, deductions for damaged goods or equipment might still violate state laws concerning the collection of debts and the procedures and limitations on garnishment.

What This Means For Counties

Before responding in any way to accidents or negligence on the part of an employee, counties will need to review all rules under the Fair Labor Standards Act to be sure they are in compliance. For more information on these laws, talk with your county attorney.

For more information, contact CTSI at 303-861-0507.