

LABOR; Electric Line Crews, Leaking Crews, Meter Men, etc., are not to be included in fixing the amount of inspection fees of buildings or shops, as they are not employed within such buildings or shops.

June 9, 1934. 6-11



Mrs. Mary Edna Cruzen,
Commissioner of Labor,
Jefferson City, Missouri.

Dear Mrs. Cruzen:

We are acknowledging receipt of your letter in which you inquire as follows:

"Has the State Labor and Industrial Inspection Department in St. Louis authority to collect inspection fee for employes working on the outside of the St. Louis County Gas and Union Electric Company in some of the following capacities, such as Meter Men, Electric Line Crews, Gas constructors, Leaking Crews, Electric & Gas trouble men?"

The St. Louis branch of this Department is of the opinion that these particular places come under the inspection fee because the men use the buildings going in and out for orders and changing their clothes, etc.

I would appreciate your opinion on this subject as soon as possible in order that this question may be straightened out in the minds of the various inspectors in this Department."

Section 13219, R. S. Mo. 1929, among other things, provides how the fees for inspection shall be fixed. It provides that:

"****For the inspection of every building or shop in which three or less persons are employed or found at work, the sum of fifty cents; for the inspection of every building or shop in which more than three and not exceeding thirteen persons are employed, the sum of one dollar;*****."

The section then enumerates how the fees shall be increased as the number of persons increase. The statute expressly provides that the amount of fees to be collected

shall be regulated by the number of persons employed within the building or shop. The purpose of the inspection statute is to provide suitable working conditions in buildings and shops for the benefit of the people who are employed within the buildings or shops. Such being true, it is consistent that the Legislature should provide a graduated scale of fees based upon the number of persons employed within the building or shop. We do not believe that it was the intention of the Legislature the employes of the Company, who are not employed within the buildings or shops, should be included in fixing the amount of the fees to be charged for the inspection. Men whose chief and substantial duties require them to work out in the open and whose contact with the buildings or shops inspected is simply incidental because of being an employe of the Company should not be included in determining the fees to be charged. Meter men, Electric Line Crews, Gas Constructors, Leaking Crews and Electric and Gas Trouble Men, by the very nature of their work, are not employed within ^{the} buildings or shops in question.

Of course, it may be true that they go to such buildings for the purpose of getting orders and changing their clothes, etc., but it cannot be said that they are employed within the building or shop. All of their substantial duties are carried on outside of the building or shop. The fact is that they are employed not for the purpose of working within the building or shop, but on the contrary, employed to work outside of the building or shop. If they can be included because they enter the building for incidental purposes, then it would appear that the amount of fees would be fixed by the total number of persons employed by any company, because every employe must, for some minor purpose at some time, enter into some of the buildings of the Company. We believe that it is only those people who are employed within the buildings that may be included in fixing the amount of the inspection fees, because the inspection statutes were made for their benefit and, of course, the more employes within a building the more inspection is required, but we do not believe that it was ever the intention of the Legislature that such employes as you have enumerated in your inquiry should be included in determining the amount of fee to be charged when none of the work they are employed to do is within a building.

We are therefore of the opinion that trouble men, meter men, etc., as set out in your inquiry, should not be included in determining the amount of the inspection fee. These men are not employed within a building or shop, as required by the statute, and the mere fact that they incidentally use the buildings inspected would not make them persons employed within the Building within the contemplation of the statute.

As a matter of fact, they are employed to work

Mrs. Mary Edna Cruzen,

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not within the buildings inspected but their substantial duties are all performed outside of any building or shop.

Very truly yours,

FRANK W. HAYES,
Assistant Attorney General.

APPROVED:

ROY MC KITTRICK,
Attorney General.

FWH:MS.