

CORPORATION: Notice of reduction of employees' wages is mandatory and has reference to all classes of employees (Sections 4590 and 4591, R. S. Mo. 1929).

January 21, 1941



Mr. Earl H. Shackelford
Commissioner of Labor
Jefferson City, Missouri

Dear Mr. Shackelford:

We are in receipt of your letter of January 9, wherein you state as follows:

"A question has arisen with reference to the interpretation of Section 4590 and 4591, R. S. Missouri, 1929. The question is - Do the above sections make it mandatory upon a company or corporation doing business in this state, desiring to reduce the wages of its employees, or any of them, to give to all employees affected thereby a thirty days notice of such reduction? Also what is meant by the term 'wages' in the above provision? Does this term indicate day and piece workers or does it have reference to salaried workers only?"

Section 4590, R. S. Mo., 1929, provides that:

"Any railway, mining, express, telegraph, manufacturing or other company or corporation doing business in this state, and desiring to reduce the wages of its employees, or any of them, shall give to the employees to be affected thereby thirty days' notice thereof."

Section 4591, R. S. Mo., 1929, provides that:

"Such notice may be given by posting a written or printed handbill, specifying the class of employes whose wages are to be reduced and the amount of the reduction, in a conspicuous place in or about the shops, station, office, depot or other place where said employes may be at work, or by mailing each employe a copy of said notice or handbill, and such company or corporation violating any of the provisions of the preceding section shall forfeit and pay each party affected thereby the sum of fifty dollars, to be recovered by civil action in the name of the injured party, with costs, before any court of competent jurisdiction."

In the case of State ex inf. McKittrick v. Wymore, 343 Mo. 98, 119 S. W. (2d) 941, l. c. 944, the court said:

"It is the general rule that in statutes the word 'may' is permissive only, and the word 'shall' is mandatory."

And in the case of Ousley v. Powell, 12 S. W. (2d) 102, l. c. 103, the court said:

"When a statute provides what results shall follow a failure to comply with its terms, it is mandatory and must be obeyed. Horsefall v. School District, 143 Mo. App. 541, 545, 546, 128 S. W. 33."

The above sections provide not only that companies or corporations doing business in this state shall give notice

to their employees of the reduction of wages, but also prescribe the results to follow if said companies or corporations fail to give notice. This definitely establishes the mandatory character of the above two sections.

The term "wages" was construed by the court in the case of *Reddick v. Northern Accident Co.*, 180 Mo. App. 277, 165 S. W. 354, 1. c. 357, wherein the court said:

"'Wages' is the compensation given to a hired person for his or her services; it is that for which one labors; it is the stipulated payment for service performed. *Bovard v. Railway Co.*, 83 Mo. App. loc. cit. 501."

In the case of *Henry v. Fisher*, 2 Pa. Dist. Rep. 71, the court said:

"Wages are defined to be 'the compensation paid or to be paid for services by the day, week or month' (*Anderson's Law Dict.*, hoc. tit.), or 'a compensation given to a hired person for his or her services' (*Bouvier's Law Dict.*, Id.). They are only due as the result of a hiring or employment, and involve the relation of master and servant, or employer and employee."

And again in the case of *Seiler v. State*, 160 Ind. 605, 65 N. E. 922, 1. c. 927, the court said:

"Wages are the compensation paid or to be paid for services by the day, week, etc., as of laborers, commissioners, etc."

It is clear that the term "wages" is not limited to salaried workers only, but includes all workers whether they be paid by the hour, day, week or month.

Mr. Earl H. Shackelford

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From the foregoing, we are of the opinion that it is mandatory upon companies or corporations doing business in this State and desiring to reduce the wages of their employees, or any of them, to give to all said employees affected thereby thirty days' notice of such reduction in the manner provided for by Section 4591, R. S. Mo., 1929. It is our further opinion that Sections 4590 and 4591, R. S. Mo., 1929, include all classes of employees of said companies or corporations whether they be salaried workers or day and piece workers.

Respectfully submitted,

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APPROVED:

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