

Section 10176, or Section 14810, R.S.Mo. 1939,
LABOR DEPARTMENT: Pertaining to payment of employees, does
STREET RAILROADS: not apply to street railroads.

March 19, 1943

Mr. Orville S. Traylor
Commissioner of Labor
Jefferson City, Missouri



Dear Sir:

This is to acknowledge receipt of your letter of March 4, 1943, in which you enclose a copy of a contract executed by an employee of the Kansas City Public Service Company and said company, dated November 25th, 1942. We set forth your letter, in which you request the opinion of this department, as follows:

"You will find enclosed a copy of the contract made by the Kansas City Public Service Company with Mr. Howard E. Hutchins.

"We would like to have your opinion on the following question:

"Can this contract legally provide that the pay a man received while in training may be deducted from the wages of the man received as a regular employee, if he resigned shortly after the completion of his training period?

"In this particular case, the man, Mr. Hutchins, quit after being with this Company for about forty days, including both his training and regular employment.

"I would like to call your attention, in this regard, to Section 10176 and 14810, R. S. Missouri, 1939."

We herewith set forth Section 2 of said contract, for the reason that it is the portion of the contract which pertains to the question asked in your letter. Said Section 2 provides as follows:

"That he will undergo a student training period of from fifteen (15) to thirty (30) days, for which he shall be paid two dollars (\$2.00) per day, one-half of this amount to be paid upon completion of the training period, the balance of the first regular payday thereafter. Should the Employee fail to qualify for car or bus service or be discharged before qualifying, he shall not receive any pay for the time spent as a student, and if the Employee leaves the service of the Company or is discharged before the expiration of ninety (90) days after date of qualifying for work, he will refund the amount paid him for said training period, and hereby authorizes the Company to deduct same from any wages or moneys which may be due him."

You call our attention to Sections 10176 and 14810, R. S. Mo. 1939, as bearing on the question asked in your letter.

Section 10176, supra, is found in Article 3, Chapter 68, R. S. Mo. 1939, under the general title of "Department of Labor and Industrial Inspection" and provides in part as follows:

"All persons or corporations engaged in operating a railroad or railroad shops in this state, shall pay their employees once in every thirty days in lawful money of the United States, and at no pay day shall there be withheld more than ten days of the earnings of the employees. * * * * *

(Emphasis ours.)

It will be noted that this section refers only to all persons or corporations engaged in operating a railroad or railroad shops in this state, and provides certain penalties for the violation of said section.

Section 14810, supra, is found in Article 1, Chapter 111, under the general title of "Mines and Mining and State Bureau of Mines" and provides in part as follows:

"All persons or corporations engaged in or operating any mines, stone or granite quarries in this state shall pay their employees once in every fifteen days in lawful money of the United States, and at no pay day shall there be withheld any of the earnings due any such employee:
* * * * *

We have examined the records in the Corporation Department of the Secretary of State's office and find that the Kansas City Public Service Company was originally incorporated under Article 5, Chapter 90, R. S. Mo. 1919, relating to street railroads. However, it was amended to include Article 1, Chapter 32, R. S. Mo. 1929, the general corporation statutes, and Article 16, Chapter 32, R. S. Mo. 1929, relating to stock corporations and not Article 2, Chapter 33, pertaining to railroad companies.

It will be observed, therefore, that the two sections of the statutes referred to in your letter, namely, Sections 10176 and 14810, R. S. Mo. 1939, are not applicable to corporations incorporated under the street railroad article and chapter, which is now Article 4, Chapter 43, R. S. Mo. 1939.

CONCLUSION

It is, therefore, the opinion of this department that the statutes referred to in your letter do not apply to corpor-

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ations organized as street railroads and we do not find any section of our statutes which is contravened by Section 2 of the contract submitted to us.

Respectfully submitted,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

CRH:CP