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Help Wanted: Promised bonus must be paid

April 10, 2012 10:26 AM By CARRIEMASON-DRAFFEN carrie.mason-draffen@newsday.com



Photo credit: iStock | Labor law doesn't require employers to pay bonuses, but when they promise to do so, they have to make good on that promise.

Carrie Mason-Draffen




Carrie Mason-Draffen
Mason-Draffen, a business reporter, writes a column

DEAR CARRIE: My son works for an environmental engineering firm. A few years ago, all the firm's employees received a letter from the company's president saying they had earned a bonus of one week's pay. But the bonus was never paid. When the employees asked when they would receive the bonus, the company's president said he didn't know because cash was tight. As I mentioned, the bonus letter is in writing. Is the company violating any employment statute by not paying?

On a different note, my son incurs travel expenses for site visits. The company pays him back for these expenses, but delays paying for as long as four months or more. The average monthly payment is about




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\$100: Would state labor law require the expenses to be paid earlier, for example within 30 days of submission? -- Concerned Dad

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DEAR CONCERNED: In answer to the bonus question, the employer's failure to pay the benefit is most likely a labor law violation. Labor law doesn't require employers to pay bonuses, but when they promise to do so, they have to make good on that promise and in a timely fashion.

"While bonuses are generally discretionary, in this case the bonus was actually earned by each employee pursuant to the letter from the employer," said Michael J. Borrelli, of Borrelli & Associates in Great Neck. "The employer should make the bonus payment on the next regularly scheduled payday after the bonus became an earned wage."

And for those employers who fail to make timely payments, Section 198-C of state labor law sets a statutory deadline that employers must meet or find themselves in violation of the law.

Employers who fail "to pay the amount or amounts necessary to provide such benefits or furnish such supplements within 30 days after such payments are required to be made, shall be guilty of a misdemeanor," the statute says.

Since that deadline is probably long gone, your son may have to enlist the help of the Labor Department to get his money.

The travel expenses are covered by the same statutory deadline. Again, the employers don't have to reimburse employees for such expenses, unless they promise to do so, which your son's employer did.

"Although there is no law in New York that requires employers to pay or reimburse employees for business-related expenses, the long-standing interpretation of Labor Law 198-C is that such statute imposes on an employer the requirement to abide by the terms of his agreement to provide benefits," Borrelli said.

To contact the Labor Department, your son should call 516- 794-8195 or 212-775-3880.

The actions of your son's employer defeat the whole point of bonuses. Employers generally pay them to thank workers for exceptional work and to encourage them to go beyond what is expected of them. But the companies won't get that exceptional work anymore if they don't pay the promised money.

Click here to read more on promised wages and supplement law in New York State at bit.ly/HnbRQF.

DEAR CARRIE: What is New York State law regarding breaks? I work in a preschool for 4½ hours a day. We used to get breaks, but the school eliminated all breaks. I work another part-time job, and I get a 15-minute break when I work as little as four hours. -- **Give Me a Break**

DEAR GIVE ME: Your second employer gives you more than state law mandates, and that is always allowable and, of course, preferred by employees. The first employer hews to the letter of the law, which says that other than a meal break, companies aren't required to give breaks at all. And they have to grant meal breaks only to employees who work more than six hours a day. Is it fair that the company switched its policy? Certainly not to the people affected. But it is legal.

Click here for more on work breaks at bit.ly/zfq8EO.

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WorkinMan

3 months ago

Good luck 'concerned'...Nassau county has owed contractual bonuses to over 5000 employees since April of 2011 and has been dragging their feet in court since. To Boot, they claim "Cash is tight" while hiring a new police commissioners, 2 assistant commissioners and then giving the former acting commissioner who wasnt good enough to remain commissioner a 57,000 raise. The they hired the ex-long beach city manager, to be another 'Consultant', all while looking the county employees in the eyes and telling them they cant afford to honor the dully signed, legally binding, contracts.
If your son takes his boss to...

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