

CLICK NOW TO
SAVE 10%
wayfair

Subscribe to Newsday Today's paper My Newsday Traffic alerts 3 Merrick, NY 44° Hi micbo

March 6, 2012

Newsday is booking local spa treatments for half price!

search newsday.com

Long Island Sports Entertainment News Lifestyle Business Health Opinion Jobs Cars Real Estate More

Latest photos Tips Weather Traffic Obits Crossword Columns Blogs Towns Yellow Pages Restaurants

Carrie Mason-Draffen Newsday > Columnists > Carrie Mason-Draffen

4 Comments | Email | Print | Tweet 3 | Like

Help Wanted: Legality of break on premises

February 28, 2012 10:24 AM By CARRIE MASON-DRAFFEN carrie.mason-draffen@newsday.com



Photo credit: Fotolia | If the boss declares that unpaid lunch breaks must be taken at the job site, the law supports the rule. However, the company must make sure that workers are free from work for that period.

Carrie Mason-Draffen



Carrie Mason-Draffen

Mason-Draffen, a business reporter, writes a column about workplace issues.

bio | email

DEAR CARRIE: I work for a major airline. All part-time and full-time employees get a 30-minute unpaid break. Just recently local managers decided that we can't leave the building during our break. They said the company would be liable if something happened. Although none of us have injured ourselves on a break, management believes the new rule requiring us to remain in the building will prevent mishaps. Neither company policy nor our union contract addresses this issue. Do labor laws allow a company to dictate where employees go on an unpaid break? -- **Shut In Legally?**

DEAR SHUT-IN: Federal labor law permits such a policy, said employment lawyer Michael J. Borrelli, of Borrelli & Associates in Great Neck. He noted Section 29, Part 785.19 (b) of the Code of Federal Regulations:

"It is not necessary that an employee be permitted to leave the premises if he is otherwise completely freed from duties during the meal period."

It's worth mentioning that federal law doesn't require any breaks, not even meal breaks, which are usually 30 minutes. But if companies offer such unpaid breaks, their key obligation under federal law

ABOFF'S
Save Energy in Style Sale
HunterDouglas
Save on Stylish window fashions that help insulate your home, now through March 31.
Click to SAVE up to \$500 OFF Window Blinds

Find Newsday on Facebook

Sign Up Create an account or log in to see what your friends like.

Newsday on Facebook
Like 25,902

Newsday
QUESTION: Calling all parents, here's the next kids question of the week: With spring break coming up in a few weeks, we want to hear your tips and tricks when traveling with kids of all ages, whether you're driving or flying.

Comment below or send an email to jennifer.berger@newsday.com or follow her on Twitter @JenBergerKids. Don't forget to include your town and your tip may be included in the article. Thank you!

Facebook social plugin

Most popular

Stories Photos

Cops: Employee forcibly touched co-worker
7:21 AM

Cops arrest 4 near Huntington's Paramount
3/5/12

Suffolk man charged with driving while high
7:56 AM

GOP pols OK precinct plan, talks continue
3/5/12

Consultant guilty of stealing from schools
3/5/12

Hide Toolbar

My Profile

Log out

is to make sure that hourly employees are freed from work during that time, as the statute above emphasizes. Hourly workers must be paid for all the time they work.

"If it is a bona fide meal break, it may be unpaid, and the employees need only be fully relieved from their duties for the purpose of eating their meal," Borrelli said.

Despite a New York State law that requires at least a half-hour meal period when employees work more than six hours a day, you won't get relief from state regulations regarding the on-premise issue. Sometimes state statutes grant employees more rights than federal laws, but not in this case, according to Borrelli.

"New York State has not squarely answered the question of whether or not an employee can be forced to remain on premises during their break," he said. "In situations where there is no clear declaration under state law, [federal labor law] and how it has been interpreted by the courts will be the controlling authority, and it is no different here."

Collective bargaining agreements are often the last bastion for worker protections not provided by state or federal labor laws. But again you are out of luck, because as you noted, your union contract doesn't address the issue. Your only option is to appeal to the company again for freedom to venture out.

For more on meal breaks [click here](#) to go to the online U.S. Government Publishing Office at bit.ly/wlWtqb and [here](#) to research the issue on the New York Labor Department website at bit.ly/zfq8EO.

Update on "Dated Checks, a column question that appeared two weeks ago. The reader who tried for more than a year to get her company to replace three payroll checks she had forgotten in a book called last week to say that she finally got her payday. When she discovered the checks from her part-time job, she couldn't cash them because they were five years old. So she asked her company to replace them. The company took the old checks totaling \$1,200 but didn't issue her new ones. Meanwhile, the state Labor Department said she was entitled to the money. She told her manager she had spoken to Newsday's Help Wanted columnist. She received new checks soon after.

Be the first to rate: [Click to rate](#)

Add New Comment

0



Type your comment here.

Post as micbo

Showing 4 comments

Real-time updating is **paused**. (Resume)

Sort by **Newest first**



yankee011 6 days ago
isn't this what conservatives want?

Flag Like Reply



turn2guy 1 week ago
If you aren't paying me for my time, you don't have the right to tell me how I spend it or where I go. The key here is it is MY time, NOT PAID by the employer, and the employer should NOT have the legal right to tell me where I can go during that period, whether it is my 30 minute UNPAID break, or the 16 hours I am off between working for them. The law you quoted does not state paid or unpaid, and that's the difference here. These people are not under arrest!!!

Flag Like Reply

Latest Columns

- [Help Wanted: Part-time work or benefits?](#)
- [Help Wanted: Legality of break on premises](#)
- [Help Wanted: How to get a W-2 from missing employer](#)
- [Help Wanted: How to hunt down unpaid salary](#)
- [Help Wanted: Delaying, not paying wages illegal](#)

CLICK NOW TO **SAVE 10%** wayfair

HP® Toner Cartridges

Buy HP Toner Cartridges at the Official HP Site Today. Shop Now!
www.HP.com/Toner

Long Island R&B Concert

70s Soul Jam with 4 Classic Acts! Mar 9, NYCB Theatre at Westbury
www.marqueconcerts.com

2011 New York Forum

Bringing Leaders & Economists To Address Global Economy. Attend!
www.ny-forum.com

AdChoices

Our Network

- Explore Long Island
- am New York
- Hometown Shopper
- Optimum Homes
- News 12
- MSG
- Power to Learn
- Long Island Towns
- Optimum Autos
- Newsday Online Store
- CareerBuilder
- Optimum
- MSG Varsity

Follow us [Submit](#) [RSS](#) [Today's most popular](#)

My headlines

My Profile [Log out](#)

Hide Toolbar

Probably reduces the number of people returning late. I mean, really, how far can you go and be back in 30 minutes? Also, a lunch break is for lunch, not shopping, paying bills, getting your car from the shop, etc.

[Site Map](#) | [Privacy Policy](#) | [Terms of Service](#) | [Contact](#)
[Newsday](#) | [Careers](#) | [Media Kit](#) | [Advertise with Newsday](#) |
[Help](#) | Copyright © 2012 Newsday. All rights reserved.

[Flag](#) [Like](#) [Reply](#)



RRMAN 1 week ago

Without reading the article you must comply and griev later.

[Flag](#) [Like](#) [Reply](#)

Services

[Join us on facebook](#)

[Join us on twitter](#)

[Sign up for news alerts](#)

[Sign up for newsletters](#)

[Get our Apps](#)

[Newsday mobile](#)

[Hide Toolbar](#)

[Follow us](#)

[Submit](#)

[RSS](#)

[Today's most popular](#)

[My headlines](#)

[My Profile](#)

[Log out](#)