

Worker is asked to start early, but is not receiving any overtime pay



Question: I work in a large department store, and many times my supervisor asks me to start work earlier than the start time of my shift. I

clock in at that time. Unless my supervisor informs payroll of my early start time, payroll changes my clock-in time to the normal scheduled start time of my shift. This is done because there are a number of employees that pad their hours by clocking-in early. This causes me to lose many hours each week. Is this legal? Any suggestions on how to eliminate this problem?

Under the Fair Labor Standards Act, an employer must pay employees for all time "suffered or permitted to work." If you have been asked to come in early, you are clearly being permitted to work and must be paid for your time. An exception to this is if you are only coming in

a few minutes early. Then, your time is considered "de minimus" and your employer is not expected to pay for that. And employees who punch a time clock early but do not work shouldn't be paid.

If employees are punching in early and working with the employer's knowledge, the employer still must compensate the employee for his time even though the time was not requested. If your employer is having trouble with employees clocking in early without permission and doing work, then your employer should direct that this stop and may discipline employees if they violate the directive.

If your early time is infrequent and insignificant, your employer would not be required to pay for that time. However, if you are working more than 40 hours per week, you will be entitled to overtime pay.

While the FLSA does not require time clocks, it does require the employer to keep accurate records of hours worked for non-exempt employees.

I would speak to your supervisor and ask that payroll be instructed not to change your clock-in time without your knowledge and permission.

— Compiled by Georgann Yara
Have a question? E-mail it to
asktheexperts1@gmail.com.

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