

Time on your side: Learn FLSA 'rounding rule'

The Fair Labor Standards Act (FLSA) does allow employers to round off an hourly employee's arrival or departure time to the nearest five minutes, tenth of an hour or quarter of an hour.

But take note of a point many employers have been burned by: The regulations say your rounding practices can't always favor the employer. Rounding must be neutral or it must favor the employee. (*DOL 29 CFR Sec. 785.48(b)*)

That means if you round down, you must also round up. You have several ways to make rounding fair, including:

- **Minute-based.** For example, say your time clock pays by 15-minute intervals. If an employee punches in at 9:07 a.m., you'd round his start time down to 9:00 a.m. If he punches in at 9:08 a.m., you'd round up the start time to 9:15 a.m. This way, the rounding method will balance out over time.
- **Start-stop method.** Another option is to round up in the employee's favor at all starting times. Then, at the end of the shift, round down to the employer's favor at all quitting times.
- **Playing it safe.** Finally, you could choose to always round up to favor the employee. That practice would cost you more, but it would avoid all rounding disputes.

Recent case: Terrence Eyles, an hourly worker at a warehouse in Texas, clocked in and out of work using a time clock. The time clock originally rounded up and down to the nearest quarter hour.

But Eyles found a management memo that said the company was adjusting time sheets in a way that rounded down, but not up. Eyles copied the memo and sent it around to his co-workers. Then he sent it to the U.S. Department of Labor (DOL).

Eyles was fired for distributing a confidential memo he had no right to read. The court upheld his termination because he'd violated company rules.

However, the DOL investigation went ahead, and the company was ordered to issue back pay to all hourly employees who had been cheated because of the employer's one-way rounding. (*Eyles v. Uline*, No. 4:08-CV-577, ND TX)