

# Unauthorized overtime is your problem! Take steps to stop it--and punish rule-breakers

If you have read the headlines, you no doubt know that Fair Labor Standards Act (FLSA) overtime claims are on the rise. These are some of the most expensive and time-consuming lawsuits.

*The problem:* According to the law, even if you don't know someone is working overtime, you can be sued if you underpay. That's true even if you have a rule against working unauthorized overtime.

The good news is you can crack down on unauthorized overtime by punishing an employee for failing to follow your clearly articulated no-unauthorized-overtime rule.

Just remember, never dock pay for work actually performed.

**Recent case:** Shedrick, who is black, worked on aviation electronics for defense contractor CSC Applied Technologies. When a high-tech plane containing CSC electronics was dispatched to Afghanistan, several technicians had to go, too, to repair the equipment. Shedrick wanted the assignment but was passed over in favor of other engineers with more relevant experience who had seniority under a union contract.

While the plane was in Afghanistan, a supervisor asked Shedrick to work overtime one weekend on several support projects. Shedrick was selected according to the terms of the union contract and accepted the offer to work.

He was told to report on Saturday at 7:30 a.m. and work up to 10 hours. CSC had a strict policy that barred unauthorized overtime.

Shedrick arrived at 5 a.m. and began work. He then left around 1 p.m.

He also returned the next day to work on the project. It took him another two days of overtime before he was done.

When managers checked the overtime logs, they saw that Shedrick had worked far more than the originally scheduled 10 hours on Saturday. When asked to explain why, Shedrick claimed his supervisor had told him to be prepared to work the entire weekend. He said that's why he worked the additional overtime.

However, the supervisor told investigators he hadn't authorized any overtime beyond the initial Saturday work. Management concluded Shedrick had lied. CSC fired him for breaking honesty and unauthorized-work rules.

Shedrick sued, alleging that not only had he worked the time, but that supervisors had told him to.

It did him no good. The court concluded that as long as CSC had investigated the overtime and honestly concluded that Shedrick wasn't telling the truth, he couldn't challenge his termination. (*Chandler v. CSC Applied Technologies*, No. 01-10-00667, Court of Appeals of Texas, 1st District, 2012)

**Final note:** It may seem harsh to fire someone for working extra hours. You can start by issuing a reprimand. If that doesn't work, you can suspend the employee before resorting to termination. Just make absolutely sure that you pay him for every hour he worked. Remember, if you benefit from the unauthorized work and don't take steps to stop it, you are liable.