

It's Illegal to Ask Employees to Give Up Overtime Payments

Jon Hyman | Workforce

If a non-exempt employee works more than 40 hours in a week, you must pay them overtime. Period. No exceptions.

If a non-exempt employee works more than 40 hours in a work week that employee is entitled to overtime at the required rate of 1.5 times the regular rate of pay. What if, however, an employee says they'd rather forego the overtime premium than not work the extra hours at all? A Cleveland security company learned the hard way that employees cannot volunteer to work overtime at less than the required premium rate.

[According to Cleveland.com](#), Citywide Protection Services has agreed to pay \$14,760 in back overtime pay to 30 security guards following a Labor Department investigation. The company's excuse for not paying overtime? The employees asked.

George Lewandowski, Citywide Protection Services' president, said he was being characterized as a bad guy when all he had tried to do was help out his employees. Lewandowski said workers kept demanding overtime hours because they needed money....

"I have a lot of employees who don't make a lot of money, and they have a lot of kids, so they ask for a lot of extra hours," he said. "I told them that I really can't afford to pay all those extra hours, but a lot of them kept begging for hours, just begging for hours.

"I said: 'I can't pay the overtime. I'll let you work at straight time,'" Lewandowski said. "They were aware that I could not pay the overtime—no matter what!"

It does not matter whether your motives are altruistic or malicious when avoiding overtime payments. If a non-exempt employee works more than 40 hours in a week, you *must* pay them overtime. Period. No exceptions. Employees cannot ask to work the extra hours at their regular rate. They cannot choose between receiving less than the full overtime premium and no overtime hours at all. Otherwise, you might find yourself on the receiving end of a DOL investigation or collective lawsuit, neither of which is an option you want for your business.