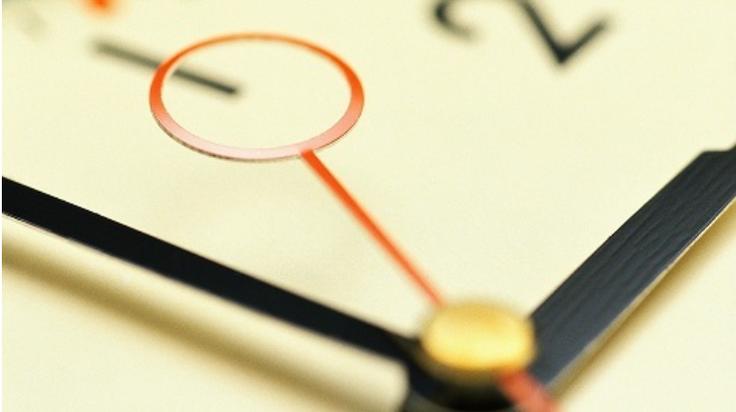


EMPLOYEES CLAIM THEIR WORKWEEK WAS CHANGED SO COMPANY COULD AVOID PAYING OVERTIME



Five current and former employees of Redland Energy Services in Arkansas initiated a civil suit against the company. The plaintiffs alleged that Redland had violated the Fair Labor Standards Act (FLSA) by altering their workweek with regard to payroll, maintaining the same work schedule, for the expressed purpose of reducing overtime pay. The plaintiffs in this case were operators of two drilling rigs for Redland, which drills and services natural gas wells. Each crew of operators worked 12-hour shifts for seven consecutive days, followed by seven days off, and were scheduled to work Tuesdays through Mondays. Other employees, such as truckers and office staff, worked a more typical Monday-to-Friday schedule. In May 2009, the company reduced the number of operators for drill rig crews from five to four. Operators' workweek was also changed, but also in the manner of title; in other words, the crews would continue working Tuesdays to Mondays, but the workweek was designated as a Monday-to-Friday schedule so that the week could be split into two payroll periods. A Redland memo stated that the change had been done to reduce the number of overtime hours. The five employees responded with civil action. They claimed that, because of the new workweek designation, they had been paid 20 hours of overtime for one week when they had genuinely worked 84 hours or more in each week. Redland, in support of its motion for summary judgment, asserted that putting all employees on the same workweek was done for efficiency – the office manager only had to do payroll two days per month in lieu of five. The company also reiterated the memo to employees, stating that reducing the number of overtime hours paid helped lessen payroll expense. The plaintiffs countered by arguing that the FLSA prohibits employers from changing a workweek for the sole purpose of cutting overtime, that Redland's intention was to reduce work at overtime rates and that its efficiency claim was a smokescreen to cover its genuine reason. The district court found no FLSA violation and granted summary judgment for Redland. The plaintiffs maintained their argument on appeal. Appellate judges first noted that the Department of Labor (DOL) defines a workweek only as seven consecutive days – a 168-hour period in which more than 40 hours worked constitutes overtime. Because of this, other courts have stated that employees earning less overtime hours in a workweek not “favorably aligned” with their schedule isn't an FLSA violation. DOL regulations further states that a workweek may be changed if the change is meant to be permanent and isn't intended to “evade” paying overtime. The plaintiffs never challenged whether or not Redland intended that the workweek alteration be permanent, but argued simply that it was evading overtime. Judges cited an earlier case, stating that the FLSA does not require that a work schedule optimize workers' overtime pay. Accordingly, Redland isn't subverting requirements by changing the schedule. According to the appeals court, if the workweek change is permanent and in accordance with the FLSA, a company's reasons for the change are “irrelevant.” The district court's ruling in favor of Redland was affirmed.