

WAGE THEFT PROGRAM FREQUENTLY ASKED QUESTIONS

The Miami-Dade Board of County Commissioners approved an ordinance prohibiting "Wage Theft" in the county. The ordinance, governed by Chapter 22 of the Code of Miami-Dade County, became effective on February 28, 2010.

What is Wage Theft?

Wage Theft is defined under the ordinance as any employer that fails "to pay any portion of wages due to an employee, according to the wage rate applicable to that employee, within a reasonable time from the date on which that employee performed the work for which those wages were compensation."

What is the minimum required to file a Wage Theft?

You must be able to show the following:

1. That you were an employee of the company or person; and
2. That the work for which you were not paid was performed in Miami-Dade County; and
3. That the amount of wages owed is more than \$60; and
4. That it has been no more than 1 year since the work was performed.

Is there a cost associated with filing a wage complaint?

No. The County offers assistance to the public through the Wage Theft Program.

Do I have to be a legal citizen in order to file a wage complaint?

No. Legal status is not a criterion necessary to file a wage theft complaint.

Can I file an anonymous wage theft complaint?

No. The employer has to know who filed the complaint as they have the right to defend against the allegations.

How soon can an employer be contacted to provide notification of a wage theft complaint?

A claimant must be without pay for at least 14 days past the last pay period in which the claimant should have been paid in order for Miami-Dade County to begin the process.

If my former employer has filed for bankruptcy can I still file a wage theft complaint with Miami-Dade County?

No. You must file a claim with the Bankruptcy Court.

Do I need an attorney to file a wage theft complaint?

No. You may have attorney, but an attorney is not required to file a complaint.

Can I hire an attorney to file a wage theft complaint?

Yes. Some claimants or employers choose to hire an attorney to represent them. However, if the claimant files suit in civil court or before any other tribunal regarding the same wages, then the claim under Chapter 22 of the Miami-Dade County Code of Ordinances will be dismissed.

Can I be represented by someone who is not an attorney?

Yes. The ordinance allows for non-lawyer advocates as an alternative to counsel, however in any proceeding, a Hearing Examiner may disallow the representation for good cause.

In addition to wages, can I claim other expenses owed such as fees for bounced checks, gasoline, construction costs, etc. in my complaint?

No, only unpaid wages can be claimed.

Can I file a complaint if my case includes intrastate commerce?

Yes. As long as all work was performed within the Miami-Dade County geographical boundaries.

If I have evidence to accompany my complaint am I guaranteed success?

No. Each case is handled and analyzed on an individual basis, and on its own merits. Variables such as evidence, testimony, willingness of employer to conciliate, etc. may affect the outcome. Just as in a court of law, success is never guaranteed.

If I do not have any evidence because my former employer paid me with cash, how can I establish that I worked for my former employer?

Emails, text messages, job invoices, ledger of hours/days worked, witnesses and pictures can serve as evidence of employment.

Can I file a complaint if I was an independent contractor?

No. The ordinance specifically excludes independent contractors. However, you may still be able file suit in the court system to recover monies owed for worked performed.

Can I file a complaint if I am owed less than the \$60 minimum?

No. The minimum amount required is \$60.00.

If I performed the work outside of Miami-Dade County, can I file a complaint because the company is based in Miami-Dade County?

No. Where the employer is based is irrelevant as the work must have been performed within Miami-Dade County.

Can I withdraw my complaint at any time?

Yes. Just notify the County by sending a written request of cancellation via U.S. Postal Service, Email or fax.

What happens if I don't attend my scheduled hearing?

If a complainant does not attend their scheduled hearing the case will be dismissed. If the employer does not attend, the hearing will proceed in their absence and a final order awarding damages and costs may be rendered.

What do I do if I receive a partial payment related to my wage complaint from my employer?

Notify the County immediately so that the complaint can be amended to reflect the corrected amount claimed.

If an employer wants to settle a filed complaint without the County's involvement, can I enter into a settlement with my former employer without the County's participation?

Yes. Some employers and employees prefer to settle directly outside of the County. If a settlement is reached the employee should notify the County immediately and provide a written request to close their complaint.

Should I accept a settlement from my employer if it is less than the amount I am owed?

Accepting a settlement proposition is a personal decision that only a claimant can make.

Does the County represent the employee or employer?

Neither. Although all valid wage complaints are investigated, the County remains neutral in all proceedings to best facilitate conciliation or settlement between both parties.

Will the County help me prepare and present my case if it must go to a hearing?

No. If it is necessary to go to an administrative hearing, each party must present their case before the hearing examiner. The County cannot assist in any way at a hearing. You should review the section entitled "What to Expect at the Wage Theft Hearing," for more detailed information about the hearing process.

Should I bring all my original documents to the hearing?

Yes. However, you should bring two sets of copies of all documents that you want the hearing examiner to consider. Any document given to the hearing examiner will not be returned to the party presenting the document.

If I successfully prove my case at the hearing and receive a ruling in my favor, am I guaranteed payment of my unpaid wages and damages?

No. The County cannot force anyone to pay. If you do not receive payment after forty-five (45) days, and you have not been notified by the County that the employer has requested more time to pay, you will need to take private legal action to attempt to collect your money.