

Jail Time for Pennsylvania Man who "Stole" Wages

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A man who kept more than \$2,000 in wages that were paid to him in error after he was not hired by a Pennsylvania nuclear power plant was convicted of theft for refusing to return the money. According to reports, the company mailed several wage checks to the man after it failed to process the paperwork regarding his rejected employment application. The man refused to return the money even after the company sent a registered letter requesting its return. He was later arrested after the company reported him to law enforcement officials.

What if the man in the story above was an employee? Can an employer recover overpayments without involving the police? In Michigan, the answer is yes. A Michigan employer that makes an overpayment of wages or fringe benefits to an employee may deduct the overpayment amount from the employee's subsequent paychecks without the written consent of the employee if all of the following conditions are met:

- the deductions occur within 6 months of the overpayment;
- the overpayment was the result of a mathematical miscalculation, typographical error, clerical error, or misprint in the processing of the employee's paycheck, and the miscalculation, error, or misprint was made by the employer, the employee, or a representative of the employer or employee;
- the employer gives the employee a written explanation of the deduction(s) at least 1 pay period before the first deduction is made; and
- each individual deduction is not greater than 15% of the gross wages earned in the pay period in which the deduction is made and does not reduce the regularly scheduled gross wages otherwise due to the employee to an amount less than the federal (and, if applicable, the state) minimum wage.

You should note that an employer's right to deduct overpayments of wages to employees is an exception to the general rule prohibiting employers from making deductions from an employee's pay without the employee's free and written consent.

If you have any questions about this or any other wage and hour employment practices, feel free to contact the Labor and Employment Group; Adam S. Forman at (313) 496-7654, email: forman@millercanfield.com; or James B. Thelen at (517) 483-4901, email: thelen@millercanfield.com. This message is for general information only and should not be used as a basis for specific action without obtaining further legal advice.