

Master and Servant, Term of Employment. Holidays, Labor on. Compensation, for Labor on Holidays.

An employe engaged by the month must work for the master as is usual and customary in his line of work, not exceeding nine hours a day. Extra compensation for labor performed on a holiday cannot be recovered.

July 10th, 1913.

Hon. W. J. Swindlehurst,
Commissioner Department of Labor and Industry,
Helena, Montana.

Dear Sir:

Under date of the 8th inst. you wrote to this office requesting an opinion upon the point as to whether an employer of labor in this state has a right, under the statute, to work his help, employed by the month, on Decoration Day, May 30th, and on Independence Day, July 4th, and whether such employe is entitled to extra compensation for those days when working under his employer's instructions.

You are advised that May 30th and July 4th are both legal holidays. (Revised Codes of 1907, Sec. 6217.) Under the provisions of Sec. 5283 of the Revised Codes, the time of employes belongs to the employer to such an extent as is usual in the business in which they serve, not exceeding in any case ten hours in the day. By your communication I infer that the employe to whom you make reference is employed by the month at a monthly wage. In such case I am of the opinion that if the employer requests the employe to work on the days in question, and the employe submits to the demands of the employer, that he, the employe, does not thereby become entitled to extra compensation.

I am further of the opinion that if it is not usual or customary for the employes engaged in similar lines of work to work on legal holidays, that the employe in question might properly refuse to work on holidays, and such refusal would not be a proper ground upon which the employe might be discharged.

Very truly yours,

D. M. KELLY,
Attorney General.