

Minnesota High Court Rules Tips are Wages under State Law

By Gina K. Janeiro

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Employers who require restaurant employees to pay for cash register shortages, customer walkouts and unsigned credit card receipts from their gratuities violate Section 181.79 of Minnesota Statutes on “unlawful deductions,” the Minnesota Supreme Court has held. *Karl, et al. v. Uptown Drink, LLC, et al.*, No. A12-0166 (Aug. 14, 2013).

Section 181.79 states, in part, that it is unlawful for an employer to, “make any deduction, directly or indirectly, from the wages due or earned by any employee . . . for lost or stolen property, damage to property, or to recover any other claimed indebtedness running from employee to employer, unless the employee, after the loss has occurred or the claimed indebtedness has arisen, voluntarily authorizes the employer in writing to make the deduction.”

The Minnesota Supreme Court’s decision arose out of a class action brought by approximately 750 servers, bartenders and security guards against their employers for various wage-and-hour-related claims. At trial, the plaintiffs moved for judgment as a matter of law on the Section 181.79 claim because the employers admitted employees paid for cash register shortages, customer walkouts and unsigned credit card receipts from gratuities. The employers argued that the employees paid for the shortages voluntarily to avoid corrective action. The trial court denied the plaintiffs’ motion and allowed the claim to go to a jury. The jury found in favor of the defendants. The trial court then denied the plaintiffs’ motion for judgment notwithstanding the verdict, finding that gratuities were not considered “wages” under the statute. The plaintiffs appealed, and the Court of Appeals affirmed for a different reason, finding that Section 181.79 applies only if the wages fall below minimum wage.

The Minnesota Supreme Court, relying primarily on the plain language of the statute, rejected both arguments and held that gratuities are wages and Section 181.79 is not limited to situations where the wages fall below minimum wage. The Court’s ruling, while not surprising, may have repercussions beyond the immediate facts to the extent gratuities will be considered “wages” under other aspects of state law. Restaurants and other entertainment-sector employers in Minnesota should take heed and prohibit tip deductions for register shortfalls.

If you have any questions about this or other workplace developments, please contact the Jackson Lewis attorney with whom you regularly work.

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