

WHISARD Compliance Action Report

U.S. Department of Labor Wage and Hour Division

Case ID: 1739467 Originating District: Detroit MI District Office
Local Filing Number: 2014-185-09521 Investigating District: Detroit MI District Office
WHMIS Case Number: Lead Investigator: (b) (6), (b) (7)(C)
Registration Date: 09/04/2014
Assignment Date: 10/02/2014

Employer Information

Trade Name: City of Detroit Legal Name: Detroit Water and Sewerage Department
Address: 735 Randolph, 20 th Floor. Room 2001 EIN: 38-3881593
County: Wayne
NAICS Code: 924110
No. Of Employees: 1497
Detroit, MI48226

Investigation Information

Period Investigated From: 10/22/2012 BNPI:
To: 10/21/2014 Reinvestigation:
Investigation Type: (b) (7)(E) Recurring Violation:
Investigation Tool: Limited Investigation Future Compliance Agreed:
Compliance Status: Agree to Comply Involved in AG:

Recommended Action:

BWFS: RO/NO Review:
CMP: Follow Up Investigation:
Litigation: Other Action:
Civil Action: Denial of Future Certificate:
Criminal Action: BW Payment Deadline:
Submit For Opinion: Trailer forms attached:

CL

Violation / Compliance Status	Violations	EEs ATP	BWs Computed	BWs Agreed	LDs Computed	LDs Agreed	CMPs*
CL Totals:	0	0	\$0.00	\$0.00	\$0.00	\$0.00	

FLSNM

Violation / Compliance Status	Violations	EEs ATP	BWs Computed	BWs Agreed	LDs Computed	LDs Agreed	CMPs*
FLSNM Totals:	0	1	\$0.00	\$0.00	\$0.00	\$0.00	

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** CMPs computed do not necessarily indicate CMPs assessed.*

Unduplicated Employees Found:	0	Unduplicated Employees Agreed:	0
Total Amount BWs Computed:	\$0.00	Total Amount BWs Agreed:	\$0.00
Total Amount LDs Computed:	\$0.00	Total Amount LDs Agreed:	\$0.00

Conclusions & Recommendations:

FLSNM. Limited Investigation. 3(s)(1)(c) coverage, Sections 7 (r) violations: ER failed to provide an adequate space to express milk; the space provided was not shielded from view or interruptions. ER complied by providing [redacted] with a space that meets the guidelines established under the FLSA. Recommend case be administratively closed. Pub provided: HRG, Fact sheet 73, & Reasonable Break time for Nursing Mothers Notice.

WHI Signature: _____ Date: 11/13/2014

Reviewed By: _____ Date: _____

**U. S. Department of Labor
Wage & Hour Division
FLSA Narrative Report**

Case File: 1739467
Local ID: 2014-185-09521

Legal Name: Detroit Water and Sewerage Department
Doing business as: **City of Detroit**
Establishment address: 735 Randolph, 20th floor
Detroit, MI 48226
Telephone Number: 313-964-9800

Federal I.D. Number: 38-3881593

Employer Contact: Karen N. Darty
735 Randolph, 20th floor, Room 2001
Detroit, MI 48226
Telephone Number: 313-964-9807
Fax: 313-842-6491
Email: darty@dwsd.org

CASE ASSIGNMENT INFORMATION:

(b) (7)(E) Data: This investigation was initiated **(b) (7)(E)** under the Break Time for Nursing Mothers under Section 29 U.S.C. 207 (r) of the FLSA. **(b) (7)(E)** **(b) (6), (b) (7)(E)** **(b) (7)(E)** the employer did not provide **(b) (6), (b) (7)(C)** with an adequate space to express milk. **(b) (6), (b) (7)(C)** stated that **(b) (6), (b) (7)(C)** was directed by **(b) (6), (b) (7)(C)** manager to go to the bathroom located in McDonald's to express milk (Exhibit D12). **(b) (6), (b) (7)(C) (b) (7)(E)**

The employer has agreed to comply with the laws enforced by the Fair Labor Standard Act and in specific

with 29 U.S.C. 207 (r) of the FLSA. The employer stated that (b) (6), (b) (7)(C) is currently has an office assignment that would last up to a month; (b) (6), (b) (7)(C) is currently nursing in a storage room that meets the established guidelines under the FLSA. Ms. Darty added that (b) (6), (b) (7)(C) would have to go back in the field and that might present a challenge for the employer because the locations where (b) (6), (b) (7)(C) works might not have private spaces other than the bathroom. Therefore the employer is considering transferring (b) (6), (b) (7)(C) to one of the office locations in order to accommodate and support (b) (6), (b) (7)(C) need to express milk.

A limited investigation was conducted. The investigation was limited to provision enforced under the Break Time for Nursing Mothers under Section 29 U.S.C. 207 (r) of the FLSA.

Section 3(d) Employer: Ms. Karen Darty is the section 3(d) employer.

Investigation History: This is the first investigation for this employer under the Break Time for Nursing Mothers under the FLSA.

Investigation Period: The period of investigation was from October 22, 2012 to October 21, 2014.

Number of establishments: Detroit Water and Sewerage Department is a branch of the City of Detroit government

COVERAGE

The Detroit Water and Sewerage Department (DWSD) is a branch of the City of Detroit government. DWSD operates as a public agency; therefore FLSA coverage was applicable.

DWSD is one of the largest water and sewer utilities in the United States. DWSD has more than 1,700 employees and it provides water service to almost one million people in Detroit and three million people in 127 neighboring Southeastern Michigan communities throughout Wayne, Oakland, Macomb St, Clair, Lapeer, Genesee, Washtenaw and Monroe counties.

The department officially became the Detroit Water and Sewerage Department in 1973 with the adoption of Detroit's current City Charter. The Department is organized into five operating groups: Financial Services, Information Technology, Public Affairs, Wastewater Operations and Water Supply Operations.

MODO: Detroit District office is the MODO.

EXEMPTIONS:

29 U.S.C. 207 (r) (3) Undue Hardship Exemption does not apply for this employer. DWSD currently has (b) (4) employees that work for the department.

29 CFR 541.100 exemptions: was inapplicable to (b) (6), (b) (7)(C) was non-exempt hourly employee.

STATUS OF COMPLIANCE

Section 6, Minimum Wage: The investigation was limited to provision enforced under the Break Time for Nursing Mothers (Section 29 U.S.C. 207 (r) of the FLSA).

Section 7, Overtime: The investigation was limited to provision enforced under the Break Time for Nursing Mothers (Section 29 U.S.C. 207 (r) of the FLSA).

Section 7 (r): (b) (6), (b) (7)(C) is a not exempt from section 7 of the FLSA therefore (b) (6), (C) was entitled to all the provisions that is enforced under FLSA 207 (r) (1) of the FLSA.

Section 11, Record Keeping: The investigation was limited to provision enforced under the Break Time for Nursing Mothers (Section 29 U.S.C. 207 (r) of the FLSA).

Section 12, Child Labor: The investigation was limited to provision enforced under the Break Time for Nursing Mothers (Section 29 U.S.C. 207 (r) of the FLSA).

Civil Money Penalties: No CMP's recommended since this is the first investigation.

Disposition

On October 20, 2014, WHI (b) (6), (b) (7) held the final conference at the establishment located at 735 Randolph, 20th floor, Detroit, MI 48226 with Human Recourse Generalist Ms. Karen Darty. WHI (b) (6), (b) (7) explained Fact Sheet #73, Break Time for Nursing Mothers under the FLSA and Reasonable Break time for Nursing Mothers Notice.

Ms. Karen Darty was informed of the violations that were disclosed under Section 29 U.S.C. 207 (r) of the FLSA for the Break Time for Nursing Mothers. Ms. Darty stated that she thought that (b) (6), (b) (7)(C) issue was resolved as it was addressed before with (b) (6), (b) (7)(C) manager. WHI (b) (6), (b) (7) discussed violations addressed by (b) (6), (b) (7)(C) and explained in details laws enforced under the Break Time for Nursing Mother under the FLSA. WHI (b) (6), (b) (7) requested that managers should be aware of provisions enforced under the law to assure future compliance.

On October 31, 2014, Ms. Karen Darty stated in an email that the employer is implementing a new Nursing Accommodations Process (Exhibit D1a). The new process will be a part of the supervisor training that will be rolled out in the next few months. In the meantime, the employer is reviewing the process with the supervisors on a case by case basis. However (b) (6), (b) (7)(C) concerns were addressed directly with (b) (6), (b) (7)(C) Supervisor.

Ms. Darty also added that (b) (6), (b) (7)(C) is currently nursing in a storage room that meets the established guidelines under the FLSA. In addition, Ms. Karen Darty was planning to meet with both (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) supervisor soon to ensure that both parties understand the new process.

The employer also implemented new policy and forms to be given out to employees requesting accommodations under the Break Time for Nursing Mothers under the FLSA (Exhibit D2-D7). The form includes: Nursing Accommodations Process which explains procedures when requesting accommodations under Break Time for Nursing Mothers, Request for Nursing Accommodations, Nursing Accommodations Break Log, and Nursing Accommodations approval and denial letter.

The employer has agreed to comply with the laws enforced by the Fair Labor Standard Act and in specific with Section 7 (r). (b) (6), (b) (7)(C) was informed of these updates and was satisfied with the results.

Case ER: Case ID: 1739467

Publications: HRG, fact sheets #: 73 & Reasonable Break time for Nursing Mothers Notice.

Recommendation:

It is recommended that the case be administratively closed.

(b) (6), (b) (7)(C)

Wage Hour Investigator

11/12/2014