

deficiency which might be left after all liquidating dividends have been paid.

Very truly yours,

GROVER C. RICHMAN, JR.  
*Attorney General*

By: THOMAS P. COOK  
*Deputy Attorney General*

TPC:MG

AUGUST 8, 1956

HONORABLE CARL HOLDERMAN  
*Commissioner, Department of Labor and Industry*  
1035 Parkway Avenue  
Trenton, New Jersey

MEMORANDUM OPINION—P-24

DEAR COMMISSIONER HOLDERMAN:

You have requested an opinion as to whether an employer will violate R.S. 34:2-24 if he allows a female employee one day off per calendar week but permits such an employee to work more than six consecutive days.

R.S. 34:2-24 provides that:

"No female shall be employed or permitted to work in any manufacturing or mercantile establishment, bakery, laundry or restaurant more than ten hours in any one day or *more than six days* or fifty-four hours *in any one week.*" (Italics ours)

The answer to your inquiry turns on the meaning of the word "week" as found in this statute. In 86 C. J. S., *Time*, Sec. 11, the following comment is made concerning that word:

". . . in its usual and ordinary and most accurate sense it denotes a period of time of seven consecutive days; any seven consecutive days of a month or year; a period of seven consecutive days beginning with any day; and in some states the term is defined by statute. Such a week is sometimes called a 'statutory week' or a 'secular week.'

"In its other sense, the word 'week' means a calendar week . . .

". . . its meaning in any particular instance will depend on the context in which it appears and the object sought to be obtained by its use."

The legislation here under consideration seeks to protect the health and well-being of female employees. This is clearly pointed out by the court in *Toohy v. Abramowitz Department Store, Inc.*, 124 N.J.L. 209 (Sup. Ct. 1940), where the court states:

"Public policy requires that there should be control over the hours of work in certain occupations. The public interest is not served by the physical injury resulting from labor too long continued. The statute further forbids

more than six days' labor in any one week. This has been regarded as good practice for men as well as women from the earliest time."

It is our conclusion that the phrase "in any one week" as used in this statute means "in any period of seven consecutive days." Any other construction of these words would do violence to the apparent legislative intention. If the construction of calendar week is adopted, an employer would be able to work a female employee up to twelve consecutive days without violating R.S. 34:2-24. Clearly such a result was not intended by the legislature.

In *U. S. v. Southern Pacific Co.*, 209 Fed. 562 (C.C.A. 8th 1913), the court construed a provision which stated in part that an employee could work up to thirteen hours during a twenty-four hour period on "not exceeding three days in any week." At page 567 they state:

"We also think that the word 'week' in the statute was intended to mean a period of 7 days, and not necessarily a calendar week, and that the statute is not violated if no employee worked overtime more than 3 days out of 7."

A similar construction is reached in *Danielson v. Industrial Commission of Colorado*, 96 Colo. 522, 44 P. 2d 1011 (1935).

In our opinion, an employer who permits a female employee to work more than six consecutive days, even though the female employed is allowed one day off per calendar week, is in violation of the law.

Very truly yours,

GROVER C. RICHMAN, JR.  
*Attorney General*

By: THOMAS L. FRANKLIN  
*Deputy Attorney General*

TLF:lc

AUGUST 10, 1956

HON. WILLIAM F. KELLY, JR., *President*  
*Department of Civil Service*  
State House  
Trenton, New Jersey

MEMORANDUM OPINION—P-25

DEAR MR. KELLY:

You have requested our advice and opinion as to whether your Department is authorized or required by statute to hold a promotion test for a state employee who was on military leave from State service at the time the test was held. The basis for this request is N.J.S.A. 38:23-4, which provides in part:

"During the period of such leave of absence such person shall be entitled to all the rights, privileges and benefits that he would have had or acquired if he had actually served in such office, position or employment during such period of leave of absence . . . ."