

Military Stat Pay Quiz



Do Employees On Military Leave Accrue Stat Holiday Pay?

SITUATION

ABC Company is located in a province that requires employers to grant unpaid leave to employees in the military reserves. Milly Terry, an employee who's worked for ABC since 2013 and who makes \$1,000 per week, comes back to work after a year of unpaid military leave. Her first day back is Tuesday, June 17, 2013. She works through Friday in her first week back and resumes her normal Monday to Friday schedule starting the next Monday, June 23. As a result, Milly has worked 10 full days when Canada Day rolls around on July 1. Milly doesn't work on Canada Day. Assume that ABC calculates Milly's wages on a weekly basis.

QUESTION

How much, if at anything, must ABC pay Milly in statutory holiday pay for Canada Day?

- A. \$0. Milly's not eligible for holiday pay because her employment only began on June 17
- B. \$0. Milly's not eligible for holiday pay because she didn't work a full schedule in the 30 days before Canada Day
- C. \$100. A prorated amount of her usual \$200 per day based on how much Milly earned from June 17 to June 30
- D. \$200, the full amount of regular pay Milly would have received for a normal workday.

ANSWER

Either C or D, depending on the province where Milly works.

EXPLANATION

Tricky us. We threw you a curveball. We've given you a quiz that has not one but two possible right answers. We aren't trying to pull a fast one on you. What we are trying to do is make a couple of important points. The first is that employees don't lose their eligibility to receive stat holiday pay because they go on military or other unpaid leave provided under employment standards law. Having returned to work

before Canada Day, Milly is entitled to at least some pay for the holiday.

The second point this scenario illustrates is that the amount of pay an employee is entitled to receive for a stat holiday in this situation varies by province. There are two basic approaches:

Prorated: Four jurisdictions—BC, Fed, ON and SK—prorate stat holiday pay based on how much the employee earned in the month immediately before the holiday. The usual formula: The employee receives 1/20 of what she earned in the four weeks (ON, SK) or 30 calendar days (BC, Fed) immediately before the holiday. Under this formula, ABC would have to pay Milly \$100 ($1/20 \times \$2,000$ she earned from June 17 to 30). Thus, C would be the right answer if BC, Federal, ON or SK law applied.

Full Day's Pay: Under the laws of the four other provinces that grant employees unpaid military leave—MB, NB, NS and PEI—employees receive a full day's pay for the holiday regardless of how much they actually earned in the four weeks or 30 days immediately before the holiday. So if one of these provinces was the province of employment, Milly would get \$200 for Canada Day and D would be the right answer.

Note: The remaining six jurisdictions—AB, NL, NT, NU, QC and YT—don't currently require employers to let employees take unpaid military leave.

WHY WRONG ANSWERS ARE WRONG

A is wrong because while new employees who haven't been with a company long enough, typically three months, don't get stat holiday pay, unpaid leaves of absence under employment standards law don't terminate the employment relationship. Employment, in other words, is considered to continue through the period of the leave. So it's untrue that Milly's employment began on June 17, 2013. It began in 2003 when Milly first started working for ABC.

B is wrong because while employees do need to complete a probationary period of employment to qualify for stat holiday pay, time spent away on military and other forms of unpaid statutory leave count as time of employment as far as eligibility is concerned. So while the fact that Milly only worked 10 days immediately before Canada Day might reduce how much she gets in some jurisdictions, it wouldn't render her totally ineligible to be paid for the holiday.