

Minimum Wage Quiz



Which Minimum Wage Is Required When Provincially Regulated Employees Work on Federal Land?

SITUATION

An airport authority for a major airport in Québec hires a local construction company to repave runways. The contractor is subject to the *Labour Standards Act* of Québec. The airport authority that hires the contractor is regulated under the *Canada Labour Code*. The minimum wage in Québec is \$10.55 per hour; the federal minimum wage is \$11.25.

QUESTION

Which minimum wage must the contractor pay?

- A. The Québec minimum wage rate of \$10.55 per hour
 - B. The federal minimum wage rate of \$11.25 per hour
 - C. The Quebec rate but only if employees are required to report to work and work less than 3 hours because there's not enough work to do
 - D. The federal rate because workers on federal lands are considered employees of the federal government
- A. The contractor must pay the Quebec rate even though the work is done on federal land.

EXPLANATION

The situation described in this case isn't a hypothetical. It comes from an actual case that was decided by the Canadian Supreme Court back in 1979. In the case, employees of a Québec company claimed they were entitled to higher minimum wages provided under federal law while working at an airport. The Court rejected their argument. Since the employees worked for a Québec company, the minimum wage laws of Québec applied even when they were working on federal lands [*Québec Minimum Wage Commission v. Construction Montcalm Inc.*]. Although it's an old case, *Montcalm* remains the law in Canada today.

Note that the federal minimum wage is the province or territory where the employee is usually employed. In most cases, that's the province/territory where the work is carried out. But if there *is* a disparity, as in the *Montcalm* case, the provincial/territorial rate applies.

WHY WRONG ANSWERS ARE WRONG

B is wrong because legal rights of employees under provincial employment standards laws don't give way to federal laws when work is done on federal lands located in the province. According to the Court, "federal Crown lands do not constitute an extra-territorial enclave within provincial boundaries."

C is wrong – but there is something called the report-in pay rules which apply to employers who make employees report to work even if there may not be enough work to do. If the employee does show up and there's less than three hours of work available, the employer must pay the employee for at least three hours. But the issue in this case isn't call-in pay but which law determines the minimum wage.

D is wrong because employees of provincially-regulated companies don't become federal employees when they work on federal lands. If they want to become federal employees, they must get hired by a federal employer.