

LEGISLATIVE INTERPRETATIONS

Topic: Food & Rest Period – Remain on premises	Issued by: V.P., WorkSafe Services
Statute: Regulation 91-191	Date Issued: December 11, 1998
Section: 8	Date Revised:

8 An employer shall allow an employee at least one-half hour for food and rest after each five consecutive hours of work.

Question:

If an employer pays an employee for a meal break period, can he insist that the employee remain at the work premises during the break? Can he insist that the employee remain at the work premises during the break if he does not pay for the break period?

Answer:

The purpose of the break period is to provide an employee with time for food and rest. The employee is expected to be relieved of their duties during that period of time. WorkSafeNB does not specify whether it is a paid or an unpaid break. The issue of payment is to be determined between the parties.

When an employee is relieved of his duties, he would normally be free to leave the premises, unless there is an agreement between the employees or union and the employer that the employee remain at the workplace during the rest period and may occasionally be called on to assist at work during that rest period. However, this should not be used by an employer to routinely have employees work through their lunch break.

Nothing in this interpretation limits the authority of the employer to manage rest periods in light of operational requirements provided that the rest period is not delayed for longer than the maximum five-hour period in the legislation.

While the employer is obliged to provide the break, the wording of the section permits an employee to waive the break, if they prefer. There are situations where, if an unpaid break extends the employee’s shift by half an hour, the employee may prefer to work through the lunch break and get off half an hour earlier.

