

January 27, 2006
OPINION 05-0356

Honorable Randy Roach
Mayor
326 Pujo Street
P. O. Box 900
Lake Charles, LA 70602

71-1-1 Municipal Fire & Police Civil Service
R.S. 33:1996

Municipal firemen are entitled to annual vacation of eighteen days after having served one year. For purposes of leave, "day" is a twenty-four hour calendar day, regardless of how the actual hours worked are distributed in a given day.

Dear Mayor Roach:

You ask this office to advise you of the statutory rules governing vacation leave for firefighters employed by the City of Lake Charles.

Pertinent to this discussion is R.S. 33:1996, which addresses the annual vacation leave of firemen, and provides:

§1996. Annual vacation

Firemen in municipalities, parishes and fire protection districts to which this Subpart applies, after having served one year, shall be entitled to an annual vacation of eighteen days with full pay. This vacation period shall be increased one day for each year of service over ten years, up to a maximum vacation period of thirty days, all of which shall be with full pay. The vacation privileges herein provided for shall not be forfeited by any member of the department for any cause. Firemen employed on January 6, 1969 shall have their present longevity considered as a factor in the computation of their vacation benefits as provided herein.

The provisions of this section shall in no way be construed to affect in any manner any presently existing system of computing vacation periods under which greater vacation benefits are granted than those provided for herein and the same shall continue in full force and effect.

Under the provisions of R.S. 33:1996 quoted above, after one year's service, each municipal fireman is entitled to vacation leave equal to eighteen (18) days annually.

The word "day" in R.S. 33:1996 means "calendar days" of twenty-four hours each. Jurisprudence has held the word "days" in statutes governing vacations for police officers and firefighters to mean "calendar days", not "working days". In New Orleans

Firefighters Association Local, 632 v. City of New Orleans, 260 So.2d 779 (La. App. 4th Cir. 1972); affirmed, 269 So.2d 194 (La. 1972, the court reviewed R.S. 33:1996 and held that, for purposes of annual vacation periods for municipal firemen, “day” means a calendar day and not a work shift. A similar conclusion was reached by the appellate court in Authement v. Davidson, 366 So.2d 986 (La. App. 1st Cir. 1978), where the court held that the word “days” in R.S. 33:2583, dealing with vacation days for Houma police, is to be construed as meaning “calendar days”. Finally, see also the case of Kenner Firefighters Association v. City of Kenner, 742 So.2d 989 (La. App. 5th Cir. 1999), writ denied, 750 So.2d 993 (La. 1999), in which the court held that “vacation day” within the meaning and intent of the statute providing for vacation days for firefighters, is a calendar day from midnight to midnight.

Our interpretation of the word “days” concerning work shifts of different lengths remains a twenty-four hour calendar day regardless of the shift length. Here, according to R.S. 33:1996, a fireman would be entitled to eighteen (18) calendar days of leave for days on which the employee would otherwise be required to work, regardless of how the actual hours worked are distributed in a given day. An average 40-hour workweek, would, whatever the length of the shift worked, break down into eighteen eight-hour calendar days. The fireman is then entitled to receive a total vacation period of 144 hours annually (i.e., 8 hours X 18 days = 144 hours), in order to be in compliance with the minimum requirements of R.S. 33:1996. See also Attorney General Opinion 92-60, copy attached.

We hope the foregoing is helpful to you. Should you have further questions, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

KLK:ams

Honorable Randy Roach
OPINION 05-0356
Page 3

OPINION 05-0356

71-1-2 Municipal Fire & Police Civil Service

R.S. 33:1996

Municipal firemen are entitled to annual vacation of eighteen days after having served one year. For purposes of leave, "day" is a twenty-four hour calendar day, regardless of how the actual hours worked are distributed in a given day.

Honorable Randy Roach
Mayor
326 Pujo Street
P. O. Box 900
Lake Charles, LA 70602

Date Received:
Date Released: January 27, 2006

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL