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Uninterrupted Overnight Work Shifts Not Subject to Split Shift Premiums

A recent case, *Securitas v. Superior Court* (2011) 197 Cal.App.4th 115, is helpful in clarifying what constitutes – and does not constitute – a split shift for purposes of Industrial Welfare Commission Wage Order No. 4. Wage Order No. 4 entitles employees to a potential additional hour of pay at the minimum wage for any workday they work a split shift. The Wage Order defines “split shift” as “a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.”

The plaintiffs in *Securitas* filed a class action complaint against Securitas Services USA, Inc., alleging they should have been paid a split shift premium because they worked consecutive overnight shifts, with the result that they would be working during two periods in the same calendar day, separated by many hours.

According to *Securitas*, a split shift as defined by Wage Order 4 does not include a consecutive, uninterrupted shift that spans two workdays, and therefore plaintiffs were not entitled to the additional hour of pay.

Plaintiffs, on the other hand, argued that because a workday at *Securitas* ran from midnight to midnight, a security guard would work a split shift of two nonconsecutive periods on the same workday because one shift would end in the morning and the next shift would begin in the evening.

Sounds logical, right? The trial court thought so, and denied *Securitas*’ motion for summary adjudication on the plaintiffs’ claim for split shift pay. Adopting the plaintiffs’ interpretation of Wage Order 4, the trial court held that a split shift occurs whenever an employee works two nonconsecutive periods in the same workday.

Securitas filed a writ, and although the Court of Appeal denied the writ, it did agree with *Securitas*’ reading of Wage Order 4. The Court concluded that “plaintiffs working uninterrupted overnight shifts on consecutive days do not work a split shift and...the wage order was not intended to compensate employees in those circumstances.” (*Securitas, supra*, 197 Cal.App.4th at 122-123.) However, because plaintiffs had also alleged that they were required to work *interrupted* shifts during the same workday, the Court of Appeal held that *Securitas* had not met its burden on summary adjudication.

What can an employer take away from *Securitas*? Regular, overnight shifts are not subject to split shift premiums, unless the employees’ actual work shifts are interrupted.