

## FLSA-347

November 21, 1979

This is in reply to your recent communication with which you enclosed a letter from \*\*\* of , \*\*\* concerning the application of the Fair Labor Standards Act to domestic service workers.

The Fair Labor Standards Act is the Federal law of most general application concerning wages and hours of work. The major highlights of this law regarding domestic service workers are contained in the enclosed No. Publication 1382 which you may wish to send to Mr. \*\*\* .

As explained in the enclosed bulletin, domestics paid at least \$50 a calendar quarter, or employed more than 8 hours in the aggregate in any workweek are due not less than the minimum wage, currently \$2.90 an hour and not less than one and one half times their regular rates of pay for hours of work in excess of 40 in a workweek when not residing in the household where employed. An exemption from this overtime requirement (but not the minimum wage) is provided for domestic service employees who reside in the employer's household. Employees residing in the household of their employer are not considered to be working all the time. Any reasonable agreement that takes into account actual working time, exclusive of periods when the employee is free to pursue his or her own interests, is acceptable for determining the hours for which payment must be made.

You may also wish to point out to Mr. \*\*\* that the reasonable cost or fair value of such items as board, lodging, and similar facilities provided to the employees may be counted in determining the wages paid to a worker. The fact that the domestic workers in question are Vietnamese citizens would not affect the application of the Act when they are employed in the United States. Also, the obligation to pay domestic service workers the minimum wage is a statutory requirement and cannot be waived by an agreement between the employer and the employees.

If your constituent has any further questions, you may wish to suggest that they contact our Wage and Hour Area office at Room 1100, Citizens' Trust Building, 75 Piedmont Avenue, N. E., Atlanta, Georgia 30303 (telephone:(404) 221-6395). The people in that office will be pleased to assist Mr. \*\*\* in any way possible.

Sincerely,

Herbert J. Cohen  
Assistant Administrator  
Wage and Hour Division

C. Lamar Johnson  
Deputy Administrator

Enclosures