STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT
25 GOLDEN GATE AVENUE
SAN FRANCISCO, CA 94102
Legal Section

GEORGE DEUKMEJIAN, Governor

ADDRESS REPLY TO:
P.O. BOX 603
San Francisco, CA 94102

IN REPLY REFER TO:

September 15, 1986

K Mart Corporation
Western Regional Office
1184 North Citrus, Bin-K
Covina, California 91722

Attention: Ms. Nancy G. Carlin

Re: Labor Code section 208

Dear Ms. Carlin:

The Labor Commissioner, Lloyd W. Aubry, Jr., has asked me to respond to your letter of September 3, 1986, wherein you requested that the Commissioner issue an Interpretive Bulletin containing an administrative interpretation of Labor Code section 208. We have reviewed your request and find that an Interpretive Bulletin is not required.

Labor Code section 208 clearly states that an employee who is discharged is to be paid at the place of discharge. Of course, this requirement must be read in conjunction with the provisions of sections 201, 201.5 and 201.7 regarding time for payment.

Labor Code section 208 further provides that the wages of an employee who quits shall be paid at the office or agency of the employer in the county where the employee has been performing labor. You are correct when you state that this provision would require the quitting employee to return to the office or agency where the employee has been performing labor to collect his or her wages. You are also correct in stating that waiting time penalties would not accrue to an employee who fails to return to the place of employment 72 hours after quitting (unless, of course, the employee has given at least 72 hours prior notice of intention to quit in which event the wages are due at time of quitting (Labor Code section 202).)

There have been instances where the employee is prevented by the employer from returning for his wages; or where the employer has informed the employee that the wages will not be available even if he does return. Such situations are handled on a case-by-case basis. The general rule remains that the quitting employee must return to the place of employment to demand wages due except where the employee has given at least 72 hours prior notice of intention to quit.

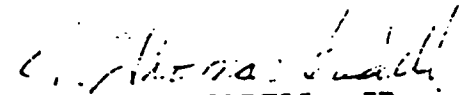
You state in your letter that despite the language of section 208 and despite your firm's adherence to the correct procedure for paying final wages, a number of claims have been filed against your firm by voluntarily terminated employees who are seeking penalties under section 203 of the Labor Code. You must understand that the Labor Commissioner and his Deputies may not deny a claim without a minimum of investigation. While it may be true that the claimant has failed to return to the place of employment after having quit his employment, there are situations, as outlined above, when such a return would not be required. There are also situations where the conditions of the termination are in issue and investigation is necessary.

Your cooperation in responding to the claim in writing, detailing any defenses your firm may have to the allegations contained in the complaint, will speed the process.

If you encounter any problems in this regard or have any question about an individual case, please feel free to contact the Senior Deputy in the District office.

If I may be of further help, please feel free to call on me at (415) 557-2516.

Yours truly,



H. THOMAS CADELL, JR.
Senior Counsel

c.c. Lloyd W. Aubry, Jr.
James Curry
Regional Managers
Senior Deputies

1986.09.15