

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT

LEGAL SECTION

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H. THOMAS CADELL, JR., Chief Counsel

May 4, 1993

James N. Adler, Esq.
Irell & Manella
1800 Avenue of The Stars, Suite 900
Los Angeles, CA 90067-4276

Re: Shutdown v. Layoff

Dear Mr. Adler:

This is in response to your letter of April 8, 1993, wherein you ask for an opinion regarding plans being made by your client to shut its facility for one or more periods of short duration, most probably not more than one week each period. You ask how these short shutdowns would affect the Labor Code provisions concerning termination.

The Division policy has long been that so long as a shutdown does not exceed ten days and there is a definite date given for return to work, the employee is not considered terminated. Thus, the company would not have an obligation to pay the employees pursuant to the provisions of Labor Code § 201.

The provisions of Labor Code § 227.3 do not require an employer to offer vacations, The section simply provides that the Labor Commissioner is to enforce the provisions of the established employer's policy concerning vacations. An employer may, of course, limit the time when vacations may be taken. If the employer's policy clearly states that no vacation may be taken during a plant closure that policy would be valid and enforceable.

I hope this adequately addresses the issues you raise in your letter of April 8, 1993.

Yours truly,

A handwritten signature in cursive script that reads "H. Thomas Cadell, Jr." followed by a large flourish.

H. THOMAS CADELL, JR.
Chief Counsel

c.c. Victoria Bradshaw

1993.05.04