

**OPINION  
52-96**

January 15, 1952            (OPINION)

LABOR

RE: Master Orders No Work on Holiday - Right of Servant to Pay

Your letter of January 7 has been handed to me for consideration and reply.

You state in your letter that a city bus driver who is employed by the month was notified by his employer that the buses would not operate on Christmas day and that, therefore, this employee did not report for work on that day. You state the employer now seeks to withhold from the wages of the employee his wages for Christmas day and you ask whether the employer can legally do so or not.

Christmas day is a legal holiday in this state and a legal holiday is a day upon which the usual operation of labor is suspended. It has, however, been quite generally held that a legal holiday suspends only such acts as the law specified and that private transactions are suspended only if specifically prohibited by law.

It is our opinion in the instant case that the employer having notified the employee that he would not be required to report for work as the buses would not run on Christmas day, and the employee for that reason did not report for work, cannot legally withhold from the employee his wages for that day. The fact that the employee did not work on Christmas day was not due to any act of his or his refusal to work, but was due entirely to the fact that he was notified by the employer not to report for work on that day. It would, therefore, be entirely unfair and illegal for the employer to refuse to pay the employee his wages for that day.

We trust that this answers your question.

ELMO T. CHRISTIANSON

Attorney General