

# The Legal Review

*Bringing the Law to Life for the Household Employment Industry*

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*A Complimentary Resource from*

**Breedlove & Associates**

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## Nanny vs. Family: SnowDay Pay

This case puts the spotlight on a little-known aspect of employment law: how is a family supposed to handle a snow day?

### *The Situation*

A family hired a full-time nanny and agreed to pay her a flat salary for 40 hours of work per week. They did not use a placement agency and there was no employment agreement in place.

About a month into the employment relationship, a severe winter storm closed much of the city. For two days, the nanny tried to get to work, but the road closures made it impossible. When payday came, the family paid her for 3 days of work instead of 5.

The nanny felt strongly that since they had agreed to a salary, she should be paid for the snow days. The family felt strongly that they shouldn't have to pay for work not performed - especially since they had to pay a neighbor to babysit those days.

Who's right?

### *The Law*

According to the Fair Labor Standards Act (FLSA), employers ARE NOT REQUIRED BY LAW to pay employees for missed work caused by inclement weather or other acts of nature. That is true whether the employee is paid on a salary or an hourly basis.

Note 1: Most employers choose to pay the employee for these kinds of involuntary absences in order to help stabilize the employee's cash flow and make sure they retain a quality employee.

Note 2: An employment agreement that guarantees pay regardless of hours worked would trump the federal law.

### *The Mess*

- When the nanny received her paycheck and saw that two full days of pay were missing, she called her employer to see if a mistake had been made.
- The employer argued that she should not have to pay for hours not worked - regardless of the reason. (The employer was emboldened because she and her husband had been able to get into work those days and they had paid a babysitter to fill in for the absent nanny).
- This greatly upset the employee because she was under the impression that she was guaranteed her salary, regardless of hours.
- The disagreement between the family and the nanny continued to escalate, because both parties felt their respective positions were justified. Finally, the employer and employee called Breedlove & Associates to learn the law and "get a formal ruling."

## *The Outcome*

We explained the law and the sensitivities. In the absence of an employment agreement, the law favored the family. But the appeal to decency (and employee retention) motivated the employer to pay for the two snow days.

Nevertheless, the disagreement had severely damaged the relationship between the family and nanny. The relationship terminated within weeks of the snowstorm and the family retained an agency to find another nanny.

## *How the Whole Thing Could Have Been Avoided*

This case illustrates the importance of employment agreements and employment law guidance within the placement process. Neither the family nor the nanny had these foundational elements in place.

If the family had a staffing professional at their side, they would have known how to handle these types of situations *before* the snowstorm hit - or at least who to call. Without established understandings and agreements, simple issues like snow days can turn into disagreements, wasted time, anxiety and sometimes even premature terminations.

This foundational structure and guidance is part of the enhanced service that quality agencies bring to the nanny search process -- expanding the value proposition from "finding an excellent nanny" to "creating an excellent nanny experience." If you have any questions about employment law or how to incorporate it into your Parent-Nanny Agreement (PNA), please give us a call. We're here to help.

For Payroll and Tax Consultations and Services, please contact  
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