

Opinion No. 56-6491

July 11, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. C. W. Burrell, State Labor Commissioner, Santa Fe, New Mexico

In reply to your letter of June 29, 1956, where you raise the question, "Would an inexperienced employee have to work a full ninety working days or just work two days a week for a period of three calendar months to qualify for the minimum wage." You ask interpretation of § 2, Article D-9, Chapter 200 of the Session Laws of 1955, which provides: "inexperienced workers who have worked less than three months for any one employer", and as to when these persons would be entitled to the minimum wage, the following is submitted for your consideration.

In establishing Section D-9, the Legislature apparently wanted to exempt certain inexperienced groups working for less than three month periods with any one employer. In Sutherland Statutory Construction, Volume 2, pages 429-437, the following rule is set out:

"Words in a statute are to be given their common meaning in the absence of a legislative intent to the contrary."

Keeping this in mind, we can conclude that a period of three calendar months was intended by the Legislature, and further keeping in mind the failure of the Legislature to further amplify or qualify Section D-9, we conclude that the Legislature intended that once an inexperienced employee had spent three calendar months with one employer, regardless of the number of days actually worked, and without regard to the terms of the employment contract between the employer and the employee, he then becomes eligible for the minimum wage.

We trust this fully answers your inquiry.

By Harry E. Stowers, Jr.

Assistant Attorney General