

NIGHT PAY VERSUS NIGHT SHIFT DIFFERENTIAL

INTRODUCTION

This reference guide summarizes the pay administration rules for Night Pay and Night Shift Differentials, provides answers to frequently asked questions, and includes examples to clarify the steps in computing each of these differentials.

COMPARISON CHART

| Rule | Night Pay for General Schedule (GS) Employees (Regulated under 5 CFR 550.121 and 550.122) | Night Shift Differential for Federal Wage System (FWS) Employees (Regulated under 5 CFR 532.505) |
|-------------------------|---|---|
| 1 Coverage | An individual who meets the definition of “employee,” including GS employees, in 5 U.S.C. 5541(2) | An individual who meets the definition of “prevailing rate employee” in 5 U.S.C. 5342(a)(2) |
| 2 Definition | Night Pay is a differential rate paid for regularly scheduled work performed between 6 p.m. (1800 hours) and 6 a.m. (0600), including any regularly scheduled overtime work. “Regularly scheduled” means that the work is scheduled before the beginning of the administrative workweek. (5 CFR 550.121(a) and 550.103) See rule 7 for exception. | Night Shift Differential means the differential paid for work performed when the majority of regularly scheduled nonovertime hours fall between 3 p.m. (1500 hours) and 8 a.m. (0800 hours). (5 CFR 532.501) |
| 3 Rates | A GS employee is entitled to his or her hourly “rate of basic pay” plus a differential of 10 percent of that rate for performing night work. (5 U.S.C. 5545(a), and 5 CFR 550.121(a)) “Rate of basic pay” includes the GS base rate and any locality payment or special rate supplement. | An FWS employee is entitled to his or her scheduled rate plus a differential of: <ul style="list-style-type: none"> (1) 7 ½ percent of that scheduled rate for regularly scheduled nonovertime work when a majority of the hours occur between 3 p.m. (1500 hours) and 12 p.m. (0000 hours); or (2) 10 percent of that scheduled rate for regularly scheduled nonovertime work when a majority of the hours occur between 11 p.m. (2300 hours) and 8 a.m. (0800 hours). (5 U.S.C. 5343(f)) <p>“Majority of hours” means a number of whole hours greater than one-half (including meal breaks), e.g., 5 hours of a scheduled 8 hour shift.</p> |

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| <p>4 Night work hours</p> | <p>Night work must be performed between the hours of 6 p.m. (1800 hours) and 6 a.m. (0600 hours). (5 CFR 550.121(a))</p> | <p>FWS employees receive a Night Shift Differential for the <u>entire</u> shift when the majority of hours fall within the specified periods. (FWS Appropriated Fund Operating Manual, Subchapter S8-4c)</p> |
| <p>5 Flexibilities in determining hours</p> | <p>The head of a department may designate different “night work” hours for GS employees outside the United States where the customary hours of business differ. (5 CFR 550.121(b))</p> | <p>No comparable provision</p> |
| <p>6 Treatment of holiday</p> | <p>An employee is entitled to a Night Pay differential when excused from night work on a holiday or other nonworkday. (5 CFR 550.122(a))</p> | <p>Applied in a similar manner (5 CFR 532.505(b))</p> |
| <p>7 While in travel status</p> | <p>An employee is entitled to a Night Pay differential for night hours of the regular tour of duty while in an official travel status, whether performing actual duty or not. (5 CFR 550.122(a))</p> | <p>Applied in a similar manner (5 CFR 532.505(c))</p> |
| <p>8 While on temporary assignment</p> | <p>An employee receives a Night Pay differential when temporarily assigned to work at night during the administrative workweek. (5 CFR 550.122(d))</p> | <p>An employee regularly assigned to a night shift who is temporarily assigned to a day shift or a night shift with a lower differential continues to receive the higher Night Shift Differential. (5 CFR 532.505(d)(1))</p> <p>An employee regularly assigned to a night shift who is temporarily assigned to another night shift with a higher differential is paid the higher differential if the majority of the employee’s regularly scheduled nonovertime hours of work fall within the shift having the higher differential. (5 CFR 532.505(d)(2))</p> <p>An employee regularly assigned to a day shift who is temporarily assigned to a night shift is paid a Night Shift Differential. (5 CFR 532.505(d)(3))</p> |
| <p>9 While on leave</p> | <p>An employee is entitled to a Night Pay differential for a period of paid leave only when the total amount of paid leave during a biweekly pay period, including both night and day hours, is less than 8 hours. (5 CFR 550.122(b))</p> | <p>An employee regularly assigned to a night shift is paid a Night Shift Differential during periods of paid leave. (5 CFR 532.505(e)(1))</p> <p>An employee regularly assigned to a day shift who is temporarily assigned to a night shift receives a Night Shift Differential for any paid leave taken when</p> |

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| | | <p>scheduled to work night shifts. (5 CFR 532.505(e)(2))</p> <p>An employee assigned to a regular rotating schedule involving work on both day and night shifts is paid a Night Shift Differential for any paid leave taken when scheduled to work night shifts. (5 CFR 532.505(e)(3))</p> <p>An employee not regularly assigned to a day shift or a night shift but whose shift is changed at irregular intervals is paid a Night Shift Differential during leave with pay if the employee received a Night Shift Differential for the last shift worked before leave began. (5 CFR 532.505(e)(4))</p> |
| 10 Rate of basic pay | Night Pay differential is in addition to overtime, Sunday, or holiday pay, and it is not included in the rate of basic pay used to compute overtime, Sunday, or holiday pay. (5 CFR 550.122(c)) | Night shift differentials are included in the rates of basic pay for wage employees and are used as a basis for computing overtime pay, Sunday pay, holiday pay, and amounts of deductions for retirement and group life insurance. (FWS Appropriated Fund Operating Manual, Subchapter S8-4c(2)) |

QUESTIONS AND ANSWERS

1. Do intermittent employees receive Night Pay or Night Shift Differential?

GS employees receive Night Pay for “regularly scheduled” work performed at night. Intermittent employees whose work is sporadic and unpredictable are not eligible for Night Pay because they do not work “regularly scheduled” tours of duty. (Rule 2 and Comptroller General decision B-250724). However, a part-time or intermittent FWS employee who works on a regularly scheduled shift of less than eight hours duration **is** entitled to a Night Shift Differential if a majority of his or her work hours are performed during a period in which a Night Shift Differential is payable. (See FWS Appropriated Fund Operating Manual, Subchapter S8-4c (5)).

2. A GS employee, whose regular tour of duty is Tuesday through Friday from 6 p.m. to 4 a.m., has been detailed to work Monday through Friday from 7:30 a.m. to 4 p.m. for two weeks. Does the employee continue to receive Night Pay during his or her detail?

No, GS employees receive Night Pay only when they are regularly scheduled to work between the hours of 6 p.m. and 6 a.m. (Rule 4).

3. Does an employee who is receiving Night Pay or Night Shift Differential continue to receive the differential while on extended periods of paid leave?

A GS employee receives Night Pay for a period of leave only when the total amount of leave is less than 8 hours in a pay period. Therefore, if a GS employee takes 8 hours or more of leave in a biweekly pay period, the employee loses the night pay for those hours of paid leave (Rule 9). However, FWS employees continue to receive Night Pay Differentials for periods of extended leave with pay (Rule 9).

4. Is a GS employee entitled to Night Pay for performing irregular or unscheduled overtime work after 1800 hours?

No, night work is regularly scheduled work performed by an employee between 6 p.m. and 6 a.m. Unscheduled overtime or overtime not approved in advance of the administrative workweek is not considered part of the regularly scheduled administrative workweek. Therefore, the employee is not entitled to Night Pay (Rule 2).

5. Is an employee entitled to Night Pay or Night Shift Differential when the employee is granted compensatory time off?

GS and FWS employees are respectively entitled to Night Pay and Night Shift Differentials when excused from night work on a holiday or other nonworkday, including days when compensatory time off in lieu of overtime pay is granted (Rule 6).

6. How do you compensate an FWS employee who works a split shift?

An FWS employee will either receive a 7 1/2 % differential for the entire shift or a 10% differential for the entire shift depending on whether the majority of work hours occur during the hours authorized for a Night Shift Differential either between 3 p.m. and midnight, or between 11 p.m. and 8 a.m., respectively. (See FWS Appropriated Fund Operating Manual, Subchapter S8-4c (6)).

PRELIMINARY INFORMATION

Examples of computing Night Pay and Night Shift Differentials are provided in the next section. Because overtime work is also included in the examples, the formulas for determining overtime hourly rates are described in the table below. Employees who are covered by the provisions of the Fair Labor Standards Act (FLSA) are called nonexempt. Those not covered by these provisions are called exempt.

| Employee Coverage | Overtime Standard | Overtime Hourly Rate | References |
|----------------------------|---|--|-------------------------------------|
| Exempt GS employees | Overtime work means work in excess of 8 hours in a day or 40 hours in a week that is officially ordered or approved and performed by an | 1 1/2 times an employee's hourly rate of basic pay (includes locality pay or a special rate supplement) if employee's hourly rate does not exceed the GS-10, step 1, rate. | 5 U.S.C. 5542, 5 CFR 550.101-113 |

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| | employee. | If employee's hourly rate exceeds the GS-10, step 1, rate, use the greater of (1) the overtime rate for GS-10, step 1, or (2) the employee's hourly rate of basic pay. | |
| Exempt FWS employees | Same as GS | 1 1/2 times employee's hourly rate of basic pay. No cap on overtime rate. | 5 U.S.C. 5544, 5 CFR 532.503 |
| Nonexempt GS and FWS employees | Same as GS, but "suffered or permitted" work is included, except for employees covered by flexible work schedules. | Multiply straight time rate of pay by all overtime hours worked PLUS one-half employee's "hourly regular rate of pay" times all overtime hours worked. "Hourly regular rate of pay" = total remuneration for workweek/total number of hours of work in workweek. | FLSA and 5 CFR part 551, subparts D & E |

NIGHT PAY COMPUTATIONS FOR GS EMPLOYEES

1. An exempt GS-9, step 2, employee is scheduled to work Monday through Friday from 3 p.m. to 11:30 p.m. with a 30-minute meal break from 7:30 p.m. to 8:00 p.m. His annual rate of basic pay is \$51,424. Calculate the employee's pay for the biweekly pay period.

Hourly Rate of Basic Pay

$$\$51,424 / 2,087 \text{ hours} = \$24.64$$

Biweekly Rate of Basic Pay

$$\$24.64 \times 80 \text{ hours} = \text{\$1,971.20}$$

Night Pay Differential (10%)

Hours worked from 6 p.m. to 6 a.m. (6 p.m. – 11:30 p.m. less 30-minute meal break = 5 hours)

5 hours x 10 workdays = 50 hours

$$\text{Night Pay } \$2.46 (\$24.64 \times .10) \times 50 \text{ hours} = \text{\$123.00}$$

Biweekly Pay Entitlement

$$\text{\$1,971.20} + \text{\$123.00} = \text{\$2,094.20}$$

2. Before the beginning of the administrative workweek, the same employee is temporarily reassigned to a day shift (40 hours) from Monday through Friday from 7:30 a.m. to 4 p.m. He also worked 4 hours of regularly scheduled overtime on Wednesday from 4 p.m. to 8 p.m. Calculate the employee's pay for that week.

Weekly Rate of Basic Pay

\$24.64 x 40 hours = \$985.60

Night Pay Differential (10%)

Overtime hours worked from 6 p.m. to 6 a.m. (6 p.m. – 8 p.m. = 2 hours)

Night Pay \$2.46 (\$24.64 x .10) x 2 hours = \$4.92

Overtime Work from 4 p.m. to 8 p.m. = 4 hours

\$36.96 (\$24.64 x 1.5) x 4 overtime hours = \$147.84

Week 1 Pay Entitlement

\$1,138.36

3. The employee returned to his regular tour of duty the second week of the pay period and was required to work during his regularly scheduled tour of duty on Tuesday, July 4th. He also performed 3 hours of unscheduled overtime from 11:30 p.m. to 2:30 a.m. on Thursday. Calculate the employee's pay for this week.

Weekly Rate \$24.64 x 40 hours = \$985.60

Night Pay Differential (10%)

Hours worked from 6 p.m. to 6 a.m. (6 p.m. – 11:30 p.m. less 30-minute meal break = 5 hours)

5 hours x 5 workdays = 25 hours*

Night Pay \$2.46 (\$24.64 x .10) x 25 hours = \$61.50

Holiday Premium Pay**

\$24.64 x 8 hours = \$197.12

Overtime Pay

\$36.96 (\$24.64 x 1.5) x 3 overtime hours = \$110.88

Week 2 Pay Entitlement

\$1,355.10

**Because Night Pay is paid only for regularly scheduled overtime work, the employee did not earn any additional Night Pay for the unscheduled overtime work.*

***"Holiday premium pay" is equal to an employee's rate of basic pay for each nonovertime hour worked.*

4. What is the employee's biweekly pay entitlement for the two weeks described above?

Total Biweekly Pay Entitlement \$2,493.46 (\$1,138.36 + \$1,355.10)

5. **A nonexempt GS 7, step 2, employee is scheduled to work Sunday through Thursday from 11 p.m. to 7:30 a.m., with a 30-minute meal break, plus 8 hours of regularly scheduled overtime work each Friday. His annual rate of pay is \$42,743. Because the GS employee is nonexempt, his overtime pay is computed under the FLSA.**

Total Hours of Work: 48 hours

Overtime Work: 8 hours

Nightwork: 39 hours

(Hours worked from 6 p.m. to 6 a.m. (11 p.m. – 6 a.m. less 30-minute meal break = 6.5 hours)

6.5 hours x 6 workdays = 39 hours)

Sunday Work: 8 hours

1. Hourly Rate of Basic Pay (Straight Time Rate of Pay)

$$\$42,743/2087 = \$20.48$$

2. Total Remuneration

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| Basic Pay (40 hours) \$20.48 x 40 hours = | \$819.20 |
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| Night Pay (39 hours) \$20.48 x .10 = \$2.05 | |
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| \$2.05 x 39 hours = | \$79.95 |
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| Sunday Premium Pay* (8 hours) \$20.48 x .25 = \$5.12 | |
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| \$5.12 x 8 hours = | \$40.96 |
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| Straight Time Pay \$20.48 x 8 hours = | \$163.84 |
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Total Remuneration = \$1,103.95 (\$819.20 + \$79.95 + \$40.96 + \$163.84)

3. Hourly Regular Rate of Pay

$$\$1,103/48 \text{ hours} = \$23.00$$

4. FLSA Overtime Pay

Straight Time Rate of Pay x All Overtime Hours Worked.

$$\$20.48 \times 8 \text{ hours} = \$163.84$$

One-half x Hourly Regular Rate of Pay x All Overtime Hours Worked

$$0.5 \times \$23.00 = \$11.50$$

$$\$11.50 \times 8 \text{ hours} = \$92.00$$

Total FLSA Overtime Pay = \$255.84 (\$163.84 + \$92.00)

5. Weekly Pay

Basic Pay = \$819.20

Night Pay = \$79.95

Sunday Premium Pay = \$40.96

FLSA Overtime Pay = \$255.84

Total Weekly Pay = \$1,195.95 (\$819.20 + \$79.95 + \$40.96 + \$255.84)

*Sunday Premium Pay is 25 percent of an employee's hourly rate of basic pay.

NIGHT SHIFT DIFFERENTIAL COMPUTATIONS FOR FWS EMPLOYEES

A Night Shift Differential for regularly scheduled nonovertime hours is considered part of an employee's rate of basic pay and is used as the basis for computing title 5 premium payments, including overtime pay. A Night Shift Differential is calculated as a percentage of an employee's scheduled rate of pay and then added to that scheduled rate to derive an employee's rate of basic pay. Under title 5, overtime work is paid at the rate of one and one-half times the employee's rate of basic pay for work in excess of 8 hours in a day or 40 hours in a week. When FWS employees perform overtime work in the situations described in 5 CFR 532.503(d) and (e), a Night Shift Differential affects the overtime rate. For example, when an employee performs overtime work on a nonworkday, the employee is entitled to overtime pay computed on the rate of the employee's last previous regularly scheduled shift. No Night Shift Differential is actually paid for the overtime hours as you will see in the following example.

6. **An exempt WS-8, step 3, employee earns \$30.46 per hour. This rate is the employee's scheduled rate of pay. The employee's normal tour of duty is Monday through Friday, 3 p.m. to 11:30 p.m. Because the majority of the employee's regularly scheduled nonovertime hours falls between 3 p.m. and midnight, the employee is entitled to a 7.5% Night Shift Differential for working 2nd shift. The employee also performs 8 hours of overtime work on Saturday. When overtime work is performed on a nonworkday, overtime is computed using the rate of basic pay of the employee's last previous regularly scheduled shift. See 5 CFR 532.503(d)(2). Calculate the employee's weekly pay.**

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| Scheduled rate of pay | \$30.46 | |
| Night Shift Differential 2 nd shift | $\$30.46 \times .075 = \2.28 | |
| Rate of basic pay | $\$32.74 (\$30.46 + \$2.28)$ per hour | |
| Basic pay | $\$32.74 \times 40$ hours = | \$1,309.60 |
| Overtime hourly rate | $\$49.11 (\$32.74 \times 1.5)$ | |
| Overtime pay | $\$49.11 \times 8$ hours = | <u>\$392.88</u> |
| Total Pay for the Workweek | | \$1,702.48 |

For FLSA-nonexempt employees receiving a Night Shift Differential for regularly scheduled nonovertime hours, "an amount attributable to the Night Shift Differential" is included in the FLSA overtime pay computation. Because this amount is a title 5 payment, it is added to an employee's total remuneration for the workweek that is used to determine an employee's hourly regular rate of pay. The employee is paid half their regular rate plus straight time rate of pay for the overtime work. This method ensures fair treatment with FLSA-exempt FWS employees whose overtime pay is computed using a rate of basic pay that includes a Night Shift Differential.

7. **A nonexempt WG-5, step 2, employee earns \$16.49 per hour. Her weekly tour of duty is Monday through Friday from 3 p.m. to 11:30 p.m. Because the majority of her regularly scheduled nonovertime hours fall between 3 p.m. and midnight, she is entitled to a 7.5% Night Shift Differential for working 2nd shift. The employee also performs 8 hours of overtime work on Saturday. When overtime work is performed**

on a nonworkday, overtime is computed using the rate of basic pay for the employee's last previous regularly scheduled shift. See 5 CFR 532.503(d)(2). What is her weekly pay?

Week 1

1. Determine number of overtime hours worked

48 hours worked – 40 hour overtime standard = 8 FLSA overtime hours

2. Determine hourly rates under title 5

Scheduled rate of pay = \$16.49

Night Shift Differential 2nd shift = \$1.24 (\$16.49 x .075)

3. Determine employee's total remuneration for the workweek

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| Scheduled rate of pay total | \$16.49 x 40 hours = | \$659.60 |
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| Night Shift Differential | \$1.24 x 40 hours = | \$49.60 |
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| Straight time rate for OT hours | \$16.49 x 8 hours = | \$131.92 |
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Amount attributable to Night Shift

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|---------------------------|--------------------|---------------|
| Differential for OT hours | \$1.24 x 8 hours = | <u>\$9.92</u> |
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| Total remuneration | | \$851.04 |
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4. Determine hourly regular rate of pay

Total remuneration/number of hours worked

\$851.04/48 = \$17.73

5. Determine FLSA overtime pay

Straight time rate of pay x all overtime hours worked

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| \$16.49 x 8 hours = | \$131.92 |
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One-half x hourly regular rate of pay x all overtime hours worked

.5 x \$17.73 = \$8.87

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| \$8.87 x 8 hours = | <u>\$70.96</u> |
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| Total FLSA overtime pay | \$202.88 |
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6. Employee's pay entitlement

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| Scheduled rate of pay total | \$659.60 |
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| Night Shift Differential | \$49.60 |
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| Amount attributable to Night Shift Differential | \$9.92 |
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| FLSA overtime pay | <u>\$202.88</u> |
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Total Week 1 Pay

\$922.00

7. **Before the beginning of the administrative workweek, the same employee is temporarily assigned to a different tour of duty on Monday through Friday from 11: 30 p.m. to 8 a.m. That said, an employee regularly assigned to a night shift who is temporarily assigned to another night shift with a higher differential is paid the higher Night Shift Differential if a majority of the employee’s regularly scheduled nonovertime hours of work on the temporary shift fall within hours having the higher differential. (5 CFR 532.505(d)(2)). The employee is entitled to a 10% Night Shift Differential for working 3rd shift. On Wednesday, the employee performs 8 hours of overtime work following her temporary shift. An employee regularly assigned to a night shift who performs overtime work which extends into or falls entirely within a day shift is entitled to overtime pay computed on the night rate. What is the employee’s weekly pay? Biweekly?**

Week 2

1. Determine number of overtime hours worked

48 hours worked – 40 hour overtime standard = 8 FLSA overtime hours

2. Determine hourly rates under title 5

Scheduled rate of pay = \$16.49

Night Shift Differential 3rd shift = \$1.65 (\$16.49 x .10)

3. Determine employee’s total remuneration for the workweek

| | | |
|-----------------------------|----------------------|----------|
| Scheduled rate of pay total | \$16.49 x 40 hours = | \$659.60 |
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|--------------------------|---------------------|---------|
| Night Shift Differential | \$1.65 x 40 hours = | \$66.00 |
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|---------------------------------|---------------------|----------|
| Straight time rate for OT hours | \$16.49 x 8 hours = | \$131.92 |
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Amount attributable to Night Shift

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|---------------------------|--------------------|---------|
| Differential for OT hours | \$1.65 x 8 hours = | \$13.20 |
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| Total remuneration | | \$870.72 |
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4. Determine hourly regular rate of pay

Total remuneration/number of hours worked

Hourly regular rate \$18.14 (\$870.72 /48 hours worked)

5. Determine FLSA overtime pay

Straight time rate of pay x all overtime hours worked

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|-------------------|----------|
| \$16.49 x 8 hours | \$131.92 |
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One-half x hourly regular rate of pay x all overtime hours worked

.5 x \$18.14 = \$9.07

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| \$9.07 x 8 hours | <u>\$72.56</u> |
| Total FLSA overtime Pay | \$204.48 |
| 6. Employee's pay entitlement | |
| Scheduled rate of pay total | \$659.60 |
| Night Shift Differential | \$66.00 |
| Amount attributable to Night Shift Differential | \$13.20 |
| FLSA overtime pay | <u>\$204.48</u> |
| Total Week 2 Pay | \$943.28 |
| Total Biweekly Pay = \$1,865.28 (\$922.00+ \$943.28) | |

REFERENCES

- 5 U.S.C. 5541
- 5 U.S.C. 5342
- 5 U.S.C. 5545(a) and 5 U.S.C. 5343(f)
- 5 CFR 532.505
- 5 CFR 550.103, 550.121-122
- FWS Appropriated Fund Operating Manual, Subchapter S8-4, Night Shift Differential and Premium Pay
- OPM Fact Sheet: Night Shift Differential for Federal Wage System Employees
- OPM Fact Sheet: Night Pay for General Schedule Employees
- DoD 7000.14, Financial Management Regulation, Volume 8, Chapter 3, Subparagraphs 030303 & 051206.C.

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