

This fact sheet has two examples of employees who would likely meet or not meet the outside salesperson Minimum Wage Act exemption requirements. These examples are provided for illustrative purposes only. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.

## Outside salesperson exemption

### Example 1

Cameron just graduated from high school and he finally has gotten his first job working for Pete's Dust Busters. As a trainee, he accompanies the senior salesperson, Tim, visiting homes in the area and offering a free cleaning to demonstrate the product to make sales. Cameron's job, as of now, is just to observe, hold the equipment, and write down the buyer's information when asked. He is thrilled because he made a salary of \$960 last month.

When he told his mom the news, she did her own calculations and discovered that this only equaled out to \$6 an hour for 40-hour workweeks. She told Cameron that he should at least be making minimum wage but he explained to his mom that his employer gave him a document stating that he is falls under the outside sales exemption. When Cameron mentioned his mom's concerns to his boss, he told him, "You are 18 and you signed the agreement to be an exempt outside salesperson, not your mother."

Cameron did want to lose his first job so he continued to work there for a few more weeks. However, after further consulting with his mom, he agreed that this wasn't fair and decided to submit a complaint through L&I from June-August 2021.

### Case analysis

**1. Is the employee's primary duty making sales (including sales, exchanges, contract sales, consignment sales, shipment sales, or other similar sales) or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customers?**

No. Cameron is a trainee and accompanies an experienced, outside salesperson but is not actually making sales himself.

**2. Is the employee customarily and regularly engaged away from the employer's place or places of business?**

Yes. Cameron accompanies an outside salesperson going door-to-door to make sales at local residences.

**3. Is the employee paid on a guaranteed salary, commission or fee basis?**

Yes. Cameron is paid a monthly salary of \$960.

**4. Was the employee informed of their status as an outside salesperson?**

Yes. Cameron's employer advised him of his status as an outside salesperson in written form. The employer also specified that Cameron was exempt from Minimum Wage Act protections because of their outside sales work.

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### Probable finding

Based on the information above, Cameron likely does not meet the requirements to be classified as an exempt outside salesperson. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.

## Outside salesperson exemption

### Example 2

April is the promotional coordinator for an event planning company. She likes the freedom of getting to work from home often and work on her own. Most of the time she is working on the website for the business and occasionally goes into the main office to do inventory and puts up posters in neighborhood community centers for special events.

What she does not like is the sales part of her job. At least four times a month her boss asks her to do a last-minute sales call to a client's business. April knows that it is an "unspoken rule" in the company that if you are needed for a sales call, you need to be available. She does like making the extra commission, but is satisfied with her fixed \$5,000 monthly salary.

Two weeks ago, she told her boss she did not have time to do any sales calls that day because she had to take her daughter to the doctor. Her boss accused her of making it up to get out of doing the sales call and told her if she does not want to do her job, maybe she should start looking for a new one.

April called L&I to submit a complaint for denied use of paid sick leave. The employer explained to the agent that even though she didn't specifically tell April that she was exempt from sick leave, that she knew and agreed that part of her job is to sell contracts to clients' at their place of business. Her complaint is for denied use of paid sick leave in April 2022.

### Case analysis

**1. Is the employee's primary duty making sales (including sales, exchanges, contract sales, consignment sales, shipment sales, or other similar sales) or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customers?**

No. April's primary duties entail updating the website and office inventory work. She only occasionally performs outside sales duties when instructed to do so and the sales work is an incidental task to her promotional job duties.

**2. Is the employee customarily and regularly engaged away from the employer's place or places of business?**

No. April primarily works between her home and the office and only occasionally visits clients' place of business to do sales work.

**3. Is the employee paid on a guaranteed salary, commission or fee basis?**

Yes. April is paid a monthly salary of \$5,000.

**4. Was the employee informed of their status as an outside salesperson?**

No. Although the employer stated that she told April that part of her job was to do sales, April was not properly informed that she was an exempt outside salesperson.

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### Probable finding

Based on the information above, April does not likely meet the requirements to be classified as an exempt outside salesperson. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.