

Shawn is the manager of a small pizza restaurant. **Mary**, one of his employees, complained to **Shawn** that she was owed overtime for staying late the previous week. **Mary** worked as a pizza chef, 10:00 – 6:30 PM, with a 30-minute unpaid meal break. **Susie**, a 15-year-old high school student worked 3:30 – 7:30, Monday through Friday. **Susie** helped prepare pizza dough using a commercial dough mixer and cooked pizzas in a commercial pizza oven. Her parents were happy that **Susie** was saving money for college and "staying out of trouble." For the week in question, **Susie** called in sick three days. **Mary** volunteered to stay until 7:30 and work through her meal break. Thus, **Mary** worked 44.5 hours but was paid for 40 (\$600 for the week). **Shawn** said that **Mary** was not entitled to overtime pay because she volunteered to stay and because she supervises **Susie**. **Has the employer violated the Fair Labor Standards Act (FLSA)?**

This case is about what is **compensable, exempt status, and child labor** violations. An **exempt worker** does not have to be paid for working more than 40 hours. **Exempt status** depends on **what a person does** and **how much they make**. For example, accountants and software designers are exempt because **they do complex things without a lot of supervision** that usually require a college degree. This is called a **Professional** exemption. The **Executive** category is another type of exemption. Executive has a broad meaning. It applies when **a person supervises at least two full-time employees and spends at least 51% of the workday managing** their employees (observing, giving feedback, training, and making HR decisions about hiring, promoting, coaching, or compensation). Even if someone supervises two or more employees, **they must be paid overtime if they earned less than \$680 per week**. Mary is **not exempt** because she is a cook who spends most of her day preparing food. She may spend a little time supervising Susie but **for most of her day, she is making pizzas**. Susie is one part-time worker. Shawn is the manager, but even if Mary supervised six people, she doesn't make enough money to be exempt from overtime. Since Mary is entitled to overtime, the question shifts to if her labor above 40 hours was **compensable. Her labor clearly benefited her employer**. Even if Mary was reading a book because business was slow, she was **engaged to wait** which means she had **little control of her time**. The **employer benefits from her being available** immediately for the next customer. **Waiting to be engaged** is when a person knows she may have to work but has several hours to report to work such as when a Macy's worker gets a call on Friday night at 6:00 about when or even if she is scheduled to work on Saturday. Mary volunteered to work late but not for free. Even if she did, it would be **illegal not to pay her overtime**.

What the employer should be more worried about is that **Susie is too young to work around dangerous kitchen machines**. It doesn't matter what Susie's parents think about her working. The fines could be up to \$10,000 per day. Also, **Susie should not be working so many hours while in school**.