



CCPA-14

July 6, 1970

This is in reply to your letter of April 28, 1970, concerning the application of section 304 of Title III, Restriction on Garnishment of the Consumer Credit Protection Act.

A particular labor agreement prescribes certain disciplinary actions for violations of company standards of conduct. Under the agreement an employee is given a written reprimand for each of the first three violations of these standards. The fourth violation draws a three-day suspension and the fifth violation results in the employee's discharge. You list then actions which would be considered as violations of these standards. One of those listed is "Garnishment or wage assignment". The agreement also provides that an employee who works six (6) months since the last violation of any rule shall have all previous violations disregarded for the purposes of progressive discipline.

You ask whether it would be considered a violation of section 304 of Title III if an employer discharge an employee for having violated the company standards of conduct five times, where one of these violations is attributable to "Garnishment or wage assignment". In question A, the garnishment standard was the fifth of the violations, and in question B it is the first of the five violations.

Section 304 of Title III provides that no employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment of for any one indebtedness. In both questions A and B, we assume that there is only garnishment for one indebtedness considered in each instance. Discharge under these circumstances seems within the prohibition of section 304. There would be no discharge but for the garnishment.

Section 304, of course, does not require an employer to keep unfit employees. But it does condemn and proscribe a discharge of an employee because his earnings have been subjected to garnishment under the terms of section 304.

We wish to indicate, in this regard, that section 302(c) of Title III defines "garnishment" to mean any legal or equitable procedure through which the earnings of any individual are required to be withheld for the payment of any debt. Accordingly, it is our opinion that a garnishment within the meaning of this definition refers to a court proceeding. Since an assignment of wages is generally a private transaction, it is our opinion that Title III would not apply to wage assignments effected prior to court proceedings.

We are in the process of preparing interpretations relating to the application of Title III. Your name has been placed on our mailing list to receive a copy as soon as they are published.

Sincerely,

Robert D. Moran
Administrator