



# Human Resources

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# HR Reality Check

✓ *Yep, the Stories are True!*

## HR CASE STUDY #20

**Scenario:** Meyer-Landis Funeral & Cremation Service has been serving families in the northern United States since the late 1800s. Currently the business is owned by Brian and Jackie Landis. They pride themselves on excellent service to their families and train all their employees to adhere to their credo, “Our community and the families we serve are our first priority and deserve to be treated as we would treat a member of our own family.” As COVID-19 became a reality earlier this year, this motto became a talisman for Brian and Jackie as they have experienced a fair number of COVID cases. At the request of their more vulnerable employees, they have limited those individuals’ exposure by adjusting their schedules or responsibilities. In fact, one of their senior licensed funeral directors elected to retire, and they have not yet been able to find a suitable candidate to replace him.

This has resulted in heavier workloads on some of the other staff members since April. Being highly conscious of this burden, Brian and Jackie are making sure that employees are tracking their time and they are being paid any overtime that is accruing. This has especially come into play for funeral directors/embalmers who are doing removals or embalming after hours or on weekends.

Recently, one of their remaining licensed funeral directors, Katy, became quite expressive with Jackie that working with the COVID cases was extremely stressful because of her fear of bringing the virus home to her family. During that conversation, Katy also mentioned that she might even consider looking for a position outside of the funeral profession as she felt that there did not appear to be a vaccination forthcoming anytime in the near future that would provide protection from the virus. Considering Katy to be a valuable employee, Jackie told Katy that she would do her best to avoid assigning any COVID cases to her and that she did understand her concerns. Katy appeared to appreciate her accommodation.

However, the next day Katy came back to Jackie and told her that she did not want to be taken off the COVID cases because she would then not be earning as much money due to the overtime. Jackie realized that she was now faced with a quandary. While she was short-handed and could use Katy, was there any risk with her dealing with the COVID cases? Jackie decided to get input from a third party.

### **What are the rules?**

There are no rules that are specific in terms of Katy being reluctant to serve COVID cases. However, there are some rules that can be considered when making decisions on how to deal with Katy. Brian and Jackie do have job descriptions and an employee handbook, which was provided to Katy when she was hired. Her job description clearly states that she is responsible for removals and embalming as needed by her employer.

The employee handbook also emphasizes the Meyer-Landis focus of serving their families at the highest level of excellence. There are clear expectations established for Katy in the performance of her job.

There are also Occupational Safety and Health Administration guidelines in place for the funeral profession in dealing with COVID – and Meyer-Landis is following all established protocols and providing personal protective equipment for employees to perform their duties safely. The OSHA guidelines can be found at the link below:

<https://www.osha.gov/SLTC/covid-19/postmortem-care.html>

Additionally, OSHA has established general guidelines for employers for the control and prevention of COVID, which Meyer-Landis has also implemented to the best of its ability:

<https://www.osha.gov/SLTC/covid-19/controlprevention.html>

On the overtime issue, any employee who does not qualify as “exempt” must be paid overtime for any hours worked beyond 40 hours in a week. This is all part of the Fair Standards Labor Act. Employees are only exempt from overtime if they meet a specific duties test and are paid a salary. Brian and Jackie have determined that their employees are not “exempt” and pay them overtime if they work it.

### **Did the employer make any mistakes?**

In reviewing Jackie’s actions, it appears she was being as accommodating as possible with Katy. There does not appear to be a “mistake.” However, what has occurred is the identification of a potential problem.

First, Jackie has now learned that Katy is not fully committed to performing her job as it is outlined in the job description. Second, it has revealed that Katy is performing a task she is clearly not happy doing simply for the money. Jackie is actively seeking a replacement for the funeral director who retired. Once that position is filled, the overtime Katy has been experiencing will be dramatically reduced. Katy has also indicated that she is considering finding another

position outside the industry because she is fearful of serving families with COVID. Has this fear impacted the quality of service she provides to the families? What if she does contract COVID?

### **Resolution of the issue**

Jackie needs to have a direct conversation with Katy about her future with Meyer-Landis. Jackie should approach this conversation carefully. Katy has been a valued and good employee. Many employees are suffering from COVID fatigue. During the conversation, Jackie can begin by expressing her appreciation of Katy’s work during this difficult time and her desire to create a good work environment.

Then she should present Katy with a copy of her job description, emphasizing how the business is following OSHA procedures and providing PPE for handling COVID cases. Jackie should also clarify for Katy that she and Brian are actively seeking to fill the retired funeral director’s position and that the overtime that she has been experiencing the last several months will be falling back to pre-April levels. Jackie can express how she hopes the reduction in overtime will be reducing the stress that everyone has been experiencing and that it had only been a short-term expectation while the job search was occurring.

The bottom line here is that Jackie needs to know that Katy is fully committed to performing her job and serving their families at the highest level of excellence and that doing her job may expose her to COVID. If she is unable to give Jackie that commitment, then Jackie can temporarily accommodate her by not having her serve COVID cases while she looks for a replacement funeral director.

### **Preventive Measures**

Brian and Jackie had the benefit of established job descriptions and an employee handbook to use as a resource to address this problem. Even though COVID was never mentioned in either of these documents, the foundation these documents provide gave them the tools they needed. •