



CCPA-32

October 8, 1970

This is in further reply to your letter of June 22, 1970, concerning the application of the discharge from employment provision of section 304(a) of Title III, Restriction on Garnishment of the Consumer Credit Protection Act.

Your first question asks whether it is permitted under section 304(a) to suspend, temporarily, employees who are receiving the first garnishment against their wage until a release is obtained for the garnishee.

Whether the limitation on discharge provision would apply to a particular suspension action would depend upon a careful examination of all the facts in the particular case. Generally, the legislative history of section 304 indicates that it was put into the law as a protection against "firing". If a suspension is for an indefinite period or of such length that the employee's return to duty is unlikely, it may well be considered tantamount to "firing" and thus, within the term "discharge" under section 304. It is probable that return to duty would not be long delayed where the employee can obtain funds from sources other than his wages or can otherwise secure a release from the garnishment. However, the suspension action may result in "discharge" where the employee cannot secure a release and he is no longer in pay status so as to enable him to earn wages to apply against the debt.

Your second question concerns whether, under section 304(a), an employer must take into account garnishment proceedings prior to July 1, 1970.

Section 504 of the Consumer Credit Protection Act provides that Title III is to be effective July 1, 1970. Thus, the proscription in section 304 against discharge from employment because of the garnishment of personal earnings is effective as of that date. Accordingly, it is our position in enforcing Title III under section 306 that an employer cannot take into account garnishments occurring before July 1, 1970, in applying section 304.

Sincerely,

Robert D. Moran
Administrator