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12 December 2023

Would it be possible for you to clarify how the Weekly Break (Descanso Semanal) is paid and counted? Due to the nature of our business (restaurant and discotheque) we work on weekends and some employees work off on Mondays, ending their workday on Sunday at midnight and returning on Tuesday at 2:00pm; others work off on Tuesdays, ending their workday on Monday around 10:00pm and returning on Wednesday at 2:00pm.

In the case of an employee who works from Tuesday to Sunday and is off on Mondays, ending his workday on Sunday at 12:00 am and returning on Tuesday at 2:00 pm, his weekly rest would be 38 hours, consisting of 24 hours on Monday + 14 hours on Tuesday.

In the case of an employee who works from Wednesday to Monday and is off on Tuesdays, finishing his workday on Monday at 10:00pm and returning on Wednesday at 2:00pm, his Weekly Rest would be 40 hours, composed of 2 hours on Monday + 24 hours on Tuesday + 14 hours on Wednesday.

And let's suppose the case of an employee who works from Monday to Saturday and gets off on Sunday - which is the most typical case - finishing his working day on Saturday at 6:00pm and returning on Monday at 8:00pm, his Weekly Rest would be 38 hours,

composed of 6 hours on Saturday + 24 hours on Sunday + 8 hours on Monday.

In none of these cases is it necessary to pay the increase foreseen in the law (art. 164, Labor Code), since in all of them the 36 hours of weekly rest (art. 163, Labor Code) are exceeded.

Nor are they obliged to pay double the work on Sundays, since they have legitimately set another day of the week for weekly rest.