

A company agreed to provide regular facilities-maintenance services for a landlord's apartment buildings for \$150 per hour. The parties also orally agreed that if the services required in any given month exceeded 100 hours, the landlord would pay the company a discounted hourly rate of \$125 per hour for those extra services. When the parties put their agreement in writing, however, neither party noticed that the contract did not include the discounted-rate provision.

In a recent month, because of several snowstorms, the services needed by the landlord exceeded 100 hours. The landlord has reminded the company that services in excess of 100 hours are to be paid at the discounted rate, but the company insists that it be paid at the contract rate of \$150 per hour.

Which of the following best describes the legal relationship between the parties at this point?

- A. The parties' contract is void ab initio because of the indefiniteness of the price term. (0%)
- B. The parties have a valid, enforceable contract that will be reformed to reflect the discounted rate of \$125 per hour for services in excess of 100 hours. (52%)
- C. The parties have a valid, enforceable contract for all services at a rate of \$150 per hour. (43%)
- D. The parties have no contract, because they were mutually mistaken regarding the hourly rate to be paid for the company's extra services. (3%)

Correct

52% Answered correctly

02 mins, 14 secs Time Spent

2023 Version

## Explanation:

### Availability of reformation as a remedy

<b>Misrepresentation</b>	One party makes untrue assertion of fact that is fraudulent or material Adversely affected party justifiably relies on that misrepresentation
<b>Mutual mistake</b>	Both parties are mistaken as to contract's contents or legal effect
<b>Unilateral mistake</b> (from fraudulent misrepresentation)	One party is mistaken because other party intentionally misrepresented contract's content or legal effect Adversely affected party justifiably relies on that misrepresentation

A **written contract** that fails to accurately express the parties' initial intent due to a **mistake of both parties may be reformed** (at a party's request) to correct such a mistake **when:**

the parties had a **prior agreement** (either oral or written)

the parties **put that prior agreement into writing** *and*

the parties' **mistake caused a difference** between the prior agreement and the written agreement.

Here, the parties orally agreed that the landlord would pay the company a discounted hourly rate of \$125 per hour if the services required exceeded 100 hours in any given month. The parties mistakenly failed to include this provision in their written contract, which caused a difference between the oral and written agreements. Therefore, the parties have a valid, enforceable contract that will be reformed to reflect the discounted rate of \$125 per hour for services in excess of 100 hours.

**(Choice A)** A contract is void ab initio (ie, has no legal effect) if its terms are indefinite. The parties here agreed to definite price terms in their oral and written agreements, but they mistakenly failed to include the discounted price term in the written contract. As a result, the written contract may be reformed.

**(Choice C)** Since the parties orally agreed to the discounted rate for extra services but mistakenly omitted it from their written contract, the landlord is entitled to reformation of the contract to reflect that rate.

**(Choice D)** A contract is **voidable** due to the parties' mutual mistake when both parties are mistaken as to an *existing* fact that is an essential element of the contract. But here, both parties were mistaken as to whether the writing reflected their actual agreement, not as to an existing fact.

**Educational objective:**

A written contract that fails to accurately express the parties' initial intent due to a mistake of both parties may be reformed when (1) the parties had a prior agreement, (2) the parties put that agreement into writing, and (3) the parties' mistake caused a difference between the prior agreement and the written agreement.

**References**

Restatement (Second) of Contracts § 151 (Am. Law Inst. 1981) (defining mistake).

Restatement (Second) of Contracts § 155 (Am. Law Inst. 1981) (explaining when a contract may be reformed due to parties mistakenly omitting provision from written contract).

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