

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

EASTER SEALS NEW HAMPSHIRE

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Easter Seals New Hampshire, 555 Auburn Street, Manchester, NH 03103

Date of Hearing: April 4, 2016

Case No.: 52246

BACKGROUND AND STATEMENT OF THE ISSUES

A Wage Claim was filed with the Department of Labor on February 1, 2016. The notice was sent to the employer and there was an objection. The objection was sent to the claimant and there was a request for a hearing. The Notice of Hearing was sent to both parties on March 11, 2016.

The claimant testified that he worked for the employer for a year. During his employment the claimant said that he received a form that recommended his hourly rate to be changed from \$10.75 per hour to \$12.00 per hour. This form was signed by a supervisor on January 4, 2016.

The claimant testified that he never received the raise and he is due \$867.25 for the hours worked after the form was signed.

The employer testified that there was a form in place and it was signed by a new supervisor who did not know that the claimant was under review for some performance problems. The employer testified that the raise would not go into effect unless there were several levels of management that would have to sign off on the raise which did not happen.

The employer stated that this process was stated in the employee handbook and that the claimant signed for the receipt of the employee handbook. The employer further testified that in January of 2016 they spoke to the claimant about the pay raise and why it was not implemented. The action against the claimant triggered a ninety day review and that the review would not be over until February 16, 2016. The claimant was terminated from employment at the end of January 2016.

FINDINGS OF FACT

RSA 275:43 I Every employer shall pay all wages due to employees within 8 days including Sunday after expiration of the week in which the work is performed, except when permitted to pay wages less frequently as authorized by the commissioner pursuant to paragraph II, on regular paydays designated in advance by the employer and at no cost to the employee.

This is the section of the law that mandates an employer to pay an employee all wages due at the time the wages are due and owing.

It is the finding of the Hearing Officer, based on the written submissions and the testimony of the parties, that the Wage Claim is invalid. The claimant has the burden to show that there are wages due and owing and he did not meet this burden.

The employer had a known process in place for the review of performance and the process of moving forward in the wage scale. In this case the process was ongoing and never completed. The wage increase was signed by a new supervisor but not followed up on by any other appropriate party. The claimant continued to receive paychecks during this period of time and knew that there was no increase in his hourly rate.

The claimant was aware of the employee handbook and the policies and procedures of the employer. He did not challenge the pay increase until he separated from the employer's service. The claimant was also aware of the performance issues and the way they played into the hourly wage increase.

The Wage Claim is invalid.

DECISION

Based on the testimony and evidence presented, as RSA 275:43 I requires that an employer pay all wages due an employee, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that he was not paid all wages due, it is hereby ruled that the Wage Claim is invalid.

Thomas F. Hardiman
Hearing Officer

Date of Decision: April 15, 2016
Original: Claimant
cc: Employer
TFH/aph