

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF LABOR**  
**CONCORD, NEW HAMPSHIRE**

**v**

**SCOTTS LAWN SERVICE**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:43-b unpaid salary

**Employer:** Scotts Lawn Service, 53 Dave's Way, Hermon, ME 04401

**Date of Hearing:** May 24, 2016

**Case No.:** 52628

**BACKGROUND AND STATEMENT OF THE ISSUES**

A Wage Claim was filed with the Department of Labor on April 4, 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 April 28, 2016.

The claimant testified that he worked for the employer from January 20, 2014 until March 22, 2016. He was a salaried employee at a salary of \$1,450.00 per week. His work week was from Sunday through Saturday.

On March 21, 2016 the claimant testified that he e-mailed the employer that he was leaving his position in April. The notice sent out was on Monday, March 21, 2016. On the next day, Tuesday, March 22, 2016, the owner of the business came to the work location in New Hampshire and terminated the claimant. The claimant is seeking three days of wages plus an additional two weeks of the notice period.

All other wages have been paid.

The employer testified that they do not owe an additional two weeks of the notice period. Upon reading the law the owners believe that they do owe the remaining three days of the last week of work.

All commissions were paid when applicable.

**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 section of the law mandates an employer to pay an employee for all wages due at the time the wages are due and owing.

RSA 275:43-b A salaried employee shall receive full salary for any pay period in which such employee performs any work without regard to the number of days or hours worked; provided.

This part of the law spells out when and how salaried employees are to be paid for their time.

It is the finding of the Hearing Officer, based on the written submissions and the testimony of the parties, that there are wages due and owing in this Wage Claim. The claimant had the burden to show that there were wages due and owing and he met this burden.

The claimant was credible when he stated that he did work some time of his work period. The employer terminated the claimant during that last week on the second day of the pay period. The claimant is not due the entire amount of the notice period.

The employer did testify that they owed the claimant the last three days of the last work week in accordance with the law.

The Wage Claim is valid in the amount of \$870.00.

### **DECISION AND ORDER**

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 Hearing Officer finds that the claimant proved by a preponderance of the evidence that he was not paid all wages due, it is hereby ruled that the Wage Claim is valid in the amount of \$870.00.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED] in the total of \$870.00, less any applicable taxes, within 20 days of the date of this Order.

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Thomas F. Hardiman  
Hearing Officer

Date of Decision: June 13, 2016

Original: Claimant  
cc: Employer

TFH/aph