

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

V.

HOPE'S HOLLYWOOD DINER

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Hope's Hollywood Diner, 127 Plaistow Road, Plaistow, NH 0365

Date of Hearing: February 19, 2014

Case No. 47065

BACKGROUND AND STATEMENT OF THE ISSUES

A Wage Claim was filed with the Department of Labor on November 27, 2013. The notice was sent to the employer and there was no written response. The Notice of Hearing was sent to both parties on January 15, 2014. The employer was represented at the hearing.

The claimant provided testimony that he worked on November 2 and November 3, 2013. He submitted a signed time card. He started working for the employer in June of 2013 and he was paid at an hourly rate of \$8.00.

The claimant's former supervisor testified that she worked with the claimant on the dates in November and that the claimant had a one week in delay of wages being paid.

The employer said that there is no record of the claimant working and his last pay period was October 22, 2013. The employer also said that there is no record of a weeks delay in the payment of wages.

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.

803.01 (a). Pursuant to RSA 275:43, I and II, every employer shall pay all wages due to his/her employees within 8 days, including Sundays, after the expiration of the workweek on regular paydays designated in advance. Biweekly payments of wages shall meet the foregoing

requirement if the last day of the second week falls on the day immediately preceding the day of payment. Payment in advance and in full of the work period, even though less frequently than biweekly, also meets the foregoing requirement.

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 presented for the hearing, that the Wage Claim is valid. The claimant testified that he worked on the two days in question. The supervisor at that time did back up the claimant's testimony. The claimant was also credible in his testimony and presentation that he tried several times to seek out the last wages due. He stated that he was always told that it was being looked into by the management.

The employer testified that there were no hours worked in November and that all wages had been paid. The employer also said that he had no knowledge of any delay in pay.

The employer is not sure of the time worked and the claimant provided testimony and a witness that he worked those two days in November. The Wage Claim is valid in the claimed amount of \$86.00.

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 that he was not paid all wages due, it is hereby ruled that the Wage Claim is valid in the amount of \$86.00.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED] in the total of \$86.00, less any applicable taxes, within 20 days of the date of this Order.

Thomas F. Hardiman
Hearing Officer

Date of Decision: March 19, 2014

Original: Claimant
cc: Employer
TFH/all