

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

TOWN OF WEARE

DECISION OF THE HEARING OFFICER

Appearances: Laura Spector-Morgan ESQ., Attorney for the Town of Weare

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43 V unpaid sick leave
RSA 275:44 IV liquidated damages

Employer: Town of Weare, 15 Flanders Memorial Road, Weare, NH 03281

Date of Hearing: March 6, 2014

Case No. 47164

BACKGROUND AND STATEMENT OF THE ISSUES

A Wage Claim was filed with the Department of Labor on December 11, 2013. The Wage Claim was dated December 10, 2013. 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 February 5, 2014.

The Town of Weare presented a Motion that the New Hampshire did not have jurisdiction of this Wage Claim because it was filed outside of the three year statute of limitations.

Upon review of the presentations and the time frames and the Town policies in place at the time of the claimant's resignation from the Town, the Motion is accepted. This is not a timely Wager Claim.

FINDINGS OF FACT

RSA 275:51 V. A wage claim may be filed by an employee or by the department on its own motion no later than 36 months from the date the wages were due. The commissioner shall

notify the employer by serving upon the employer a copy of such claim and an order to file with the commissioner within 10 days from the receipt of such notice any objections to such claim specifying the grounds therefore. Service may be by certified mail with return receipt. If objection is not made within 10 days, the commissioner may order that payment be made in accordance with the claim. If requested, a hearing shall be afforded at which time any party may appear, with counsel if desired, and present evidence and cross-examine opposing witnesses. Any party, at the party's own expense, may cause a record to be made of the hearing. A written decision shall be made within 30 days after the hearing stating the decision and specifying the facts and conclusions upon which the decision is based. If wages are found to be due, an order for payment shall issue. Any party aggrieved by the decision may appeal to the superior court not later than 20 days from the date thereof by petition, setting forth that the decision is erroneous, in whole or in part, and specifying the grounds upon which the decision is claimed to be in error. Upon the filing of an appeal, the commissioner shall transfer to the court the record of the proceeding or a certified copy thereof. The scope of review by the superior court shall be limited to questions of law. After hearing and upon consideration of the record, the court may affirm, vacate or modify in whole or in part the decision of the commissioner, or may remand the matter to the commissioner for further findings. In the absence of a seasonable appeal, the decision and order shall be final, shall be entered upon the docket of the superior court at the request of the prevailing party, may be enforced as a judgment of the court, and shall be a lien upon the property of the employer situated in the state for a period of 3 years from the time of the decision. It is a requirement of this chapter for purposes of RSA 275:52 that a final order be immediately satisfied by the employer.

This section of the law sets a time frame of thirty-six months for the filing of a Wage Claim. A review of the submissions and testimony shows that this was not done. The Wage Claim is invalid based on being requested after the three year period of limitation.

DECISION AND ORDER

The Wage Claim is denied based on timeliness.

/S/

Thomas F. Hardiman
Hearing Officer

Date of Decision: April 2, 2014

Original: Claimant
cc: Employer

TFH/cag