

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

V

OHM Universe LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43 V unpaid employee expenses

Employer: OHM Universe LLC, 67 Federal Lane, Palm Coast, FL 32137-8478

Date of Hearing: May 21, 2014

Case No.: 47662

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$2,156.25 in unpaid wages for hours worked during multiple weeks of 2012. He argues he worked June 2012 through January 2013, at a rate of \$15.00 per hour. He testified he kept working though pay was sporadic by the promise of being paid later.

He and Mr. Barker also took on a job together doing wire stripping, but that was outside his employment with OHM Universe LLC.

The employer denies the claimant is due any compensation from this company. He was employed June 2012 through October 2012, when he told the employees there was no more money to pay them and they should find other jobs. He previously submitted documentation to show wages he had paid the claimant. He also testified the claimant "felt strongly" that the company would be successful in the future and stayed on under his own free will.

The employer also allowed the claimant and other employees to use his equipment and materials to make Christmas presents in December 2012, for which they were not charged.

The claimant had also been an employee of Jenivox Manufacturing LLC, a prior company which ceased functioning in June 2012. At the hearing, the employer agreed the claimant is due \$778.74 between the two wage claims.

The claimant filed a separate claim against Jenivox Manufacturing LLC. The hearings were not consolidated.

The employer also noted he had filed personal bankruptcy. He did not file bankruptcy for the business. His attorney advised him that any award from today's proceeding would be added to his personal bankruptcy.

FINDINGS OF FACT

The claimant worked for the employer from June 2012 through December 22, 2012. His regular hourly rate was \$15.00.

Both parties agree that the employer was paying towards the backlog of wages owed whenever he was able.

The employer provided documentation showing wages due to the claimant as follows:

- June 10, 2012 to June 23, 2012 \$555.00
- June 24, 2012 to July 7, 2012 \$1,151.25
- July 8, 2012 to July 21, 2012 \$1,132.50
- July 22, 2012 to August 4, 2012 \$1,256.25
- August 5, 2012 to August 18, 2012 \$768.75
- August 19, 2012 to September 1, 2012 \$937.50
- September 2, 2012 to September 15, 2012 \$1,050.00
- September 16, 2012 to September 29, 2012 \$990.00
- September 30, 2012 to October 13, 2012 \$1,166.25
- October 14, 2012 to October 27, 2012 \$768.75
- October 28, 2012 to November 10, 2012 \$457.50
- November 11, 2012 to November 24, 2012 \$360.00
- November 25, 2012 to December 8, 2012 \$1,466.25
- December 9, 2012 to December 22, 2012 \$195.00

The documentation also shows the employer made the following payments to the claimant:

- June 10, 2012 to June 23, 2012 \$1,016.25
- June 24, 2012 to July 7, 2012 \$1,151.25
- July 8, 2012 to July 21, 2012 \$1,132.50
- July 22, 2012 to August 4, 2012 \$1,284.38
- August 5, 2012 to August 18, 2012 \$768.75
- August 19, 2012 to September 1, 2012 \$1,200.00
- September 2, 2012 to September 15, 2012 \$1,200.00
- September 16, 2012 to September 29, 2012 \$1,200.00
- September 30, 2012 to October 13, 2012 \$1,351.88
- October 14, 2012 to October 27, 2012 \$768.75
- October 28, 2012 to November 10, 2012 \$337.50

The employer argues he told the claimant he was unable to pay him around the end of October 2012. The employer admits the claimant was performing work and that

he was aware of the work being performed for the benefit of the employer. There are simply no exceptions for an employee to work with out being paid under Department of Labor statutes, for this situation.

The Hearing Officer finds the claimant proved by a preponderance of the evidence he is due \$843.75 (\$12,255.00 - \$11,411.26 in unpaid wages).

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 Department finds that the claimant proved by a preponderance of the evidence that he is owed the claimed wages, it is hereby ruled that the Wage Claim is valid in the amount of \$843.75.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$843.75, less any applicable taxes, within 20 days of the date of this Order.

/S/

Melissa J. Delorey
Hearing Officer

Date of Decision: June 11, 2014

Original: Claimant
cc: Employer

MJD/clc