

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

V

Drinkwater Productions LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Drinkwater Productions, LLC, PO Box 586, Exeter, NH 03833

Date of Hearing: June 25, 2014

Case No.: 47901

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts she is owed \$1,062.00 in unpaid wages for hours worked between November 10, 2013 and December 29, 2013. She argues the checks for November 10, 2013 in the amount of \$252.00 and November 17, 2013 in the amount of \$121.50, both were returned as unpaid by her financial institution. She was charged a fee of \$15.00 for each check and seeks reimbursement of the fees totaling \$30.00.

The employer admits she agreed to pay the claimant for the two returned checks and the associated fees. She did not, however, agree to pay the claimant for the remainder of her work through December 2013, as the claimant did not provide the appropriate four week notice. As a result, the employer lost money and almost went out of business. Therefore, she does not feel payment is due to the claimant. She further argues the claimant did not receive a regular weekly check, but submitted hours and was paid when the employer received payments from clients.

FINDINGS OF FACT

The claimant worked for the employer from April 2013 through December 2013. Her rate of pay was \$9.00 at all times.

The employer does not dispute claimant worked the number of hours she seeks. The employer argues the claimant is not due the wages because she did not honor the verbal agreement to give four weeks notice of her intention to leave.

The Hearing Officer does not find the employer's argument persuasive because there is simply no statutory allowance to withhold wages from an employee for failing to provide an agreed upon notice of intention to resign.

The Hearing Officer finds the claimant proved by a preponderance of the evidence that she worked the hours claimed and is due wages in the amount of \$1,062.00.

The claimant incurred bank fees of \$30.00, two fees of \$15.00 each, for the checks dated November 10, 2013 in the amount of \$252.00 and November 17, 2013 in the amount of \$121.50, as both were returned as unpaid by her financial institution.

The parties agree there was an agreement to reimburse the claimant for the fees incurred for these two checks.

RSA 275:43 I requires 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**.

The Hearing Officer finds the claimant proved by a preponderance of the evidence she is due the claimed employee expenses in the amount of \$30.00.

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 Department finds that the claimant proved by a preponderance of the evidence that she is owed the claimed wages, it is hereby ruled that the Wage Claim is valid in the amount of \$1,062.00.

As RSA 275:43 V considers the payment of employee expenses to be wages, when due, if a matter of employment practice or policy, or both, and as this Department finds that the claimant proved by a preponderance of the evidence that she was not paid all employee expenses due, it is hereby ruled that this portion of the Wage Claim is valid in the amount of \$30.00.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$1,092.00 (\$1,062.00 + \$30.00), less any applicable taxes, within 20 days of the date of this Order.

/s/

Melissa J. Delorey
Hearing Officer

Date of Decision:

Original: Claimant
cc: Employer
MJD/clc