

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE


V

WRX Deals Auto Sales LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: WRX Deals Auto Sales LLC, 325-B Silver Street, Manchester, NH 03103

Date of Hearing: March 6, 2014

Case No.: 47925

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$5,300.95 in unpaid wages for hours worked between March 2012 and July 2013. He states that he was an employee of WRX Deals Auto Sales LLC and did not receive minimum wage for all hours worked. He worked seven days per week, from early in the morning to late at night. He testified he did purchase a car from the employer, the cost of which he deducted from the total amount due to reach the amount he is seeking here today.

WRX Deals Auto Sales LLC denies the claimant was an employee. They argue the claimant was either an employee or an independent contractor for another business, EMG, which later became GBJ. The claimant is the brother of an owner of those entities. They regularly did business with those entities and did have contact with the claimant as a representative of those entities.

Both parties attempted to introduce testimony regarding past and present issues of the opposing party's actions which were outside the jurisdiction of this Department. None of the testimony from either party was allowed and was not considered for this Decision.

FINDINGS OF FACT

The claimant argues he was an employee of WRX Deals Auto Sales LLC and he worked seven days per week from early morning to late at night. He claims the work was performed between March 2012 and July 2013.

WRX Deals Auto Sales LLC argues the claimant was not their employee. He was a representative of EMG, which later became GBJ. They did not know the exact

working relationship the claimant had with those companies, either as an employee or independent contractor, but he is the brother of an owner.

The claimant did not provide any substantiating documentation to show that he was an employee of the employer, kept either contemporaneously or after the fact, or that he worked the hours he claims.

The claimant has the burden of proof in this matter to show by a preponderance of the evidence that he was an employee of WRX Deals Auto Sales LLC and subsequently not paid for all hours worked. The Hearing Officer finds that the claimant failed to meet that burden of proof as his story is only as credible as, not more credible than, the employer's. The claimant, therefore, fails to prove by a preponderance of the evidence that he is owed the claimed wages.

DECISION

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 failed to prove by a preponderance of the evidence that he is owed the claimed wages, it is hereby ruled that the Wage Claim is invalid.

Melissa J. Delorey
Hearing Officer

Date of Decision: March 24, 2014

Original: Claimant
cc: employer

MJD/all