

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF LABOR**  
**CONCORD, NEW HAMPSHIRE**



V

**TURMEL CONSTRUCTION**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages

**Employer:** Joshua Turmel, Turmel Construction, 341 Oakland Avenue, Manchester, NH 03109

**Date of Hearing:** July 7, 2014

**Case No.** 48083

**BACKGROUND AND STATEMENT OF THE ISSUES**

A Wage Claim was filed with the Department of Labor on May 8, 2014. The notice was sent to the employer and there was no written objection to the Wage Claim. The record shows that the Prime Contractor did respond. The Notice of Hearing was sent to both parties on June 5, 2014.

The claimant testified that he has been paid \$400.00 in cash and that reduces the Wage Claim to \$1,197.50. He claims that he was an employee of the company and was hired to do work but not as a sub-contractor. To the best of his knowledge, the employer was working for a Prime Contractor and was paid for the work.

The employer stated that the claimant was a sub-contractor. He has tried to set up a payment plan with the claimant but this has not been successful. The claimant was a friend of the employer and they knew each other for almost all of their lives.

The employer said that he found the Prime Contractor on Craig's List. He did carry Worker's Compensation on himself but not for a sub-contractor. He stated that he was going to give the claimant a 1099 Federal Tax form once the year ended.

**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 has the burden to show that there are wages due and owing and he met this burden. The claimant was credible in his testimony that he was an employee and was paid some of the wages due to him.

The employer tried to show that the claimant was a sub-contractor but was not credible in his testimony. The employer has also made an effort to pay the claimant and would like to work out a payment plan. This does not negate the fact that the employer had a Prime Contractor and was paid for the work performed. The employer did not pay the claimant all that was due in wages.

The Wage Claim is valid in the amount of \$1,197.50.

### **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 by a preponderance of the evidence that he was not paid all wages due, it is hereby ruled that the Wage Claim is valid in the amount of \$1,197.50.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED] in the total of \$1,197.50, less any applicable taxes, within 20 days of the date of this Order.

/s/

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Thomas F. Hardiman  
Hearing Officer

Date of Decision: July 24, 2014

Original: Claimant  
cc: Employer  
TFH/cag