

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE


V

Thi of NH at Derry LLC

DECISION OF THE HEARING OFFICER

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

Employer: Thi of NH at Derry LLC, 8 Peabody Road, Derry, NH 03038

Date of Hearing: July 17, 2014

Case No.: 48088

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts she is owed approximately \$5,000.00 for an unpaid bonus due for the trimester of September, October, November and December 2013. She states the employer was transferred to a sister company on January 1, 2014. She did not receive any notification that the program was ending. She seeks the unpaid bonus as due.

The employer denies the claimant is due any Incentive Award. The written policy states, "The Administrator/CEO must be actively employed at the time of the award and the time of disbursement." She was not actively employed on the date of the disbursement, therefore, she is not due any payment.

FINDINGS OF FACT

The claimant worked for the employer from August 2012 through December 31, 2014, as the Administrator.

RSA 275:49 I requires that an employer inform employees of the rate of pay at the time of hire. Lab 803.03 (a) requires that an employer inform employees in writing of the rate of pay at the time of hire and prior to any changes.

The employer provided the claimant with a written policy regarding the Incentive Award, which states, "The Administrator/CEO must be actively employed at the time of the award and the time of disbursement."

The practice of the employer paid the Incentive Award approximately four to five months after the last day of the Award period.

The claimant's employment ended on December 31, 2013, the last day of the Award period, and prior to the disbursement date of the award.

The Hearing Officer finds the claimant failed to prove by a preponderance of the evidence that she is due the claimed Incentive Award under the written program of the employer.

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 she is owed the claimed wages, it is hereby ruled that the Wage Claim is invalid.

/s/

Melissa J. Delorey
Hearing Officer

Date of Decision: August 6, 2014

Original: [REDACTED]
cc: Thi of NH at Derry LLC

MJD/btl