

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

PTP Machining Inc.

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43 V unpaid vacation pay

Employer: PTP Machining, 21 West Road, Hudson, NH 03051

Date of Hearing: August 4, 2014

Case No.: 48131

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$594.50 in unpaid vacation pay, twenty-nine hours at a rate of \$20.50 per hour, which he argues was due upon his separation. He argues that employer did not make an error with the vacation pay rolled over from 2013 and he is due the additional twenty-nine hours of vacation pay.

The employer denies the claimant is due any further vacation pay. The written policy of the employer states, in relevant part, "After completing your probationary period, you will accrue .31 hours each day worked, up to a maximum of 80 hours of vacation. Once employees reach five year of full-time service, they receive an additional 5 days of vacation and begin accruing vacation time at the rate of 15 days per year. Vacation balance of up to 5 days may be carried from one year to the next. Upon termination, eligible employees will be paid for accrued but unused vacation time."

The claimant signed an acknowledgement for the written policies of the employer on February 25, 2006. Both the policy and acknowledgement were previously submitted.

An error occurred in calculating the claimants accrued vacation time. They discovered that more than five days had been allowed to roll over from the previous year.

Upon the claimant's separation, they adjusted the vacation time in accordance with the written policy. The claimant was paid his accrued vacation time pursuant to the written policy, when he separated from the employer.

FINDINGS OF FACT

The claimant worked for the employer from February 2006 through May 6, 2014, when he resigned.

Upon his separation, the employer compensated him for forty hours of vacation time which had been rolled over from the 2013 and twenty-two and one quarter hours he had accrued in 2014.

RSA 275:49 V requires the employer to make available to employees, in writing or through a posted notice, employment practices and policies with regard to vacation pay. Lab 803.03 (c) requires the employer to inform employees in writing of any change in vacation pay practices or policies prior to the effective date of the change and (f)(6) requires an employer to maintain on file a signed notification of the acknowledgement of the proper notifications.

The employer properly notified the claimant of the written policy and maintained on file the claimant's signed and dated acknowledgement.

The employer made an error in calculating the claimant's vacation time by inadvertently rolling over greater than five days of vacation pay from 2013 to 2014. Upon the claimant's separation, the employer corrected this error and paid the claimant the vacation pay to which he was entitled under their written policy.

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence he is due the claimant vacation pay under the written policy 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 RSA 275:43 V considers vacation pay to be wages, when due, if a matter of employment practice or policy, or both, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that he is due any vacation pay, it is hereby ruled the Wage Claim is invalid.

/s/

Melissa J. Delorey
Hearing Officer

Date of Decision: August 6, 2014

Original:

cc:



PTP Machining

MJD/cag