

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

**V**

**FREMONT MACHINE AND TOOL CO. INC.**

**DECISION OF THE HEARING OFFICER**

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

**Employer:** Fremont Machine & Tool Co., Inc., 810 Main St., Fremont, NH 03044

**Date of Hearing:** September 22, 2014

**Case No.** 48554

**BACKGROUND AND STATEMENT OF THE ISSUES**

A Wage Claim was filed with the Department of Labor on July 24, 2014. The notice was sent to the employer and there was an objection. The objection was sent to the claimant and there was a request for a hearing. The Notice of Hearing was sent to the parties on September 2, 2014.

The claimant testified that he was owed \$14,740.00 in unpaid wages. He worked for the employer for almost one year. He started out as an hourly employee, shifted to salary and then finally back to hourly. He did say that he worked some part-time hours before coming on as a full time employee.

The employer testified that the wages are due. He testified that he thought that the business would make it financially and the claimant was aware of the problems. There were many financial difficulties then the other co-owner became seriously ill and the decision has been made to sell the company and/or the equipment. The owner testified that the sale of the business or of a machine, the claimant would be paid in full.

**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 parties came to an agreed upon solution and asked that it be part of the decision in this Wage Claim.

#### **DECISION AND ORDER**

The parties have agreed to the following resolve to this Wage Claim. The total amount due is set at \$13,000.00. The employer will start to pay directly to the claimant \$250.00 per week starting on or before October 3, 2014. This will continue until the wages are paid. The employer also stated and is part of the settlement, if the business is sold or a piece of equipment is sold that could pay the Wage Claim, the employer will pay the claimant anything remaining of the \$13,000.00.

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Thomas F. Hardiman  
Hearing Officer

Date of Decision: September 26, 2014

Original: [REDACTED]  
cc: Fremont Machine & Tool Co., Inc.

TFH/kl