

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

MAQUET MEDICAL SYSTEMS USA

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43 V unpaid vacation time
RSA 275:43 I unpaid commissions
RSA 275:43-b unpaid salary
RSA 275:44 IV liquidated damages

Employer: Maquet Medical System USA 45 Barbour Pound Rd, Wayne, NJ 07470

Date of Hearing: December 3, 2014

Case No. 48946

BACKGROUND AND STATEMENT OF THE ISSUES

A Wage Claim was filed with the Department of Labor on September 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 both parties on November 6, 2014. The Wage Claim was filed for \$6,944.64.

At the start of the hearing the claimant testified that all the various wages had been paid and that this Wage Claim was now only for \$4,758.66 in liquidated damages. The claimant testified that he gave his notice and asked to take the two weeks off with Vacation Time. This was approved by the person required to approve the leave requests. The employer had a rule that an employee could not use leave during his/her notice period or there would be an immediate discharge. When the management of the company realized that the leave had been requested, the claimant was terminated immediately. The claimant was a salaried employee and felt that he should receive his wages for the two weeks and not have been terminated. He also felt that he should be paid for his full accrual of vacation time.

The claimant believes that once he was terminated the employer did not pay off all wages in the required time under the law. Because of this they were willful and did not have good cause for any failure to comply with the law.

The employer testified that the claimant was an "at-will" employee and that is why he was terminated. The employer did not terminate the claimant for asking for vacation time for his last two weeks.

The employer testified that the claimant was paid for his last two weeks and he was paid out for all of his vacation time. The employer acknowledged that there was an error with the payroll company in processing payment for the vacation time and this was corrected with payment ultimately expedited to the claimant. The payroll company did issue an apology for the error.

The employer testified that the commissions payment had to happen subsequent to the final accounting for the reporting period because commissions payments are not based on an individual's performance but on the net sales for the reporting period. In this case the employer did not prorate the claimant's commission but paid him the entire earning period. The employer said they did this as a courtesy to the claimant because of the problem with the wage payout.

The claimant was paid for his full car allowance and paid for time until the end of August even though he was through on August 19, 2014. The employer feels that the claimant is trying to get what he calls a "wrongful termination" into the Wage Claim.

FINDINGS OF FACT

RSA 275:44 IV I. Whenever an employer discharges an employee, the employer shall pay the employee's wages in full within 72 hours.

II. Whenever an employee quits or resigns, the employer shall pay the employee's wages no later than the next regular payday, as provided under RSA 275:43, either through the regular pay channels or by mail if requested by the employee, except that if the employee gives at least one pay period's notice of intention to quit the employer shall pay all wages earned by the employee within 72 hours.

III. When work of an employee is suspended as a result of a labor dispute, or when an employee for any reason whatsoever is laid off, the employer shall pay in full to such employee not later than the next regular payday, as designated under RSA 275:43, either through the regular pay channels or by mail if requested by the employee, wages earned at the time of suspension or layoff.

IV. If an employer willfully and without good cause fails to pay an employee wages as required under paragraphs I, II or III of this section, such employer shall be additionally liable to the employee for liquidated damages in the amount of 10 percent of the unpaid wages for each day except Sunday and legal holidays upon which such failure continues after the day upon which payment is required or in an amount equal to the unpaid wages, whichever is smaller; except that, for the purpose of such liquidated damages such failure shall not be deemed to continue after the date of filing of a petition in bankruptcy with respect to the employer if he is adjudicated bankrupt upon such petition.

V. Regardless of the reason for an employee's termination of employment the employer shall pay to the appropriate administrator or other designated officials all wages in the nature of hourly health and welfare fund or pension fund contributions due with respect to such employee at the time of the next succeeding payment date applicable to such contributions.

This is the section of the law that allows for a claimant to seek liquidated damages if the Hearing Officer finds that the employer was willful and did not have good cause for their action(s) in having failed to make payment in strict accordance with the above cited law.

It is the finding of the Hearing Officer, based on the written submissions and the testimony of the parties, that the Wage Claim requesting liquidated damages is invalid. The claimant has the burden to show that the employer was willful and did not have good cause for having failed to make payment in strict accordance with the above cited law. He did not meet this burden. There were issues of paying in strict accordance with the law but these issues did not arise to the level of willfulness and there was a good cause for the delay in payment. It is

found that the employer went out of their way to make sure all payments were made and did make a gesture of "good faith" because of the human error in the processing of the vacation time.

The issues filed with the original Wage Claim have been paid and these issues have been dropped by the claimant.

The request for liquidated damages is invalid.

DECISION AND ORDER

As RSA 275:44 IV holds an employer liable to an employee for liquidated damages if the employer willfully and without good cause fails to pay wages due in the time frame required by statute, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that the employer willfully and without good cause failed to pay wages due in the time frame required, it is hereby ruled that the portion of the Wage Claim for liquidated damages is invalid.

Thomas F. Hardiman
Hearing Officer

Date of Decision: December 19, 2014

TFH/kdc