

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



V

**Krukowski Stone Co Inc.**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:43-b unpaid salary  
RSA 275:48 illegal deductions

**Employer:** Krukowski Stone Co Inc., 3781 Country Rd C, Mosinee, WI  
54455

**Date of Hearing:** March 24, 2015

**Case No.:** 49791

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts he is owed \$2,080.00 in unpaid salary/wages for four weeks in which he did not receive full salary. His base rate of pay was \$960.00 weekly. He argues he is due the following:

- July 20, 2014 \$460.00
- September 21, 2014 \$192.00
- November 23, 2014 \$468.00
- December 14, 2014 \$960.00

He testifies he worked each of these weeks and did not receive the full salary to which he is entitled. He did state the only communication he had with the employer after December 8, 2014, was via email as the verbal conversations between them had become increasingly unprofessional.

He argues the employer stated they would discuss his salary for the first week of work, July 20, 2014, after he arrived in Wisconsin for training. He asked repeatedly to discuss the salary issue. At the end of the week, the employer stated he would be paid 50% of his regular salary as they paid his travel expenses.

He testifies he did perform work during the final week on December 15, 16, 17 and 18, 2014. He submitted an email listing the issues he worked on. He stated it is the same or similar report he had submitted for weeks prior. The report was typical, but the work was not as the employer instructed him to not go on the road until he had a full book of appointments.

The employer denies the claimant is due any salary for the weeks claimed. She argues that the claimant had an agreement with the employer to receive one half of his salary for the first week of employment, July 20, 2014, as the employer paid the claimant's travel expenses to Wisconsin for training. For the weeks of September 21, 2014 and November 23, 2014, the claimant took a vacation day and holiday off. As he was still within his ninety day probationary period, he was not entitled to vacation or holiday pay. She did not have any evidence that he performed any work for the week of December 13, 2014. She had received an email with a report of sales leads, but it did not provide evidence that he had actually performed work.

She requests that this case be dismissed.

### **FINDINGS OF FACT**

Both parties agree the claimant worked for the employer as a salaried employee with a weekly salary of \$960.00.

RSA 275:43-b requires that an employer pay a salaried employee their full salary for any pay period in which the employee performs any work. It also allows employers to make deductions to a salaried employee's wages under certain circumstances, but none of those exceptions apply to the facts of this case.

RSA 275:48 I (b) allows an employer to make certain deductions from an employee's wages if they have first secured a written authorization by the employee for deductions, which for a lawful purpose accruing to the benefit of the employee as provided in regulations issued by the commissioner.

The employer is not permitted to prorate an employee's salary or make deductions from an employee's salary for travel expenses.

The employer's argument that the claimant had not completed a ninety day probationary period and was not entitled to vacation or holiday pay is not persuasive. The New Hampshire statute requires payment of an employee's full salary for any pay period in which they perform any work, with exceptions that do not apply to the facts of this case.

The employer's argument that the claimant did not complete any work for the week of December 14, 2014, is also not persuasive. The claimant provided credible evidence, previously submitted, and credible testimony that he did perform work on December 15, 16, 17 and 18, 2014.

The Hearing Officer finds the claimant proved by a preponderance of the evidence that he is due the claimed salary/wages.

**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 Department finds that the claimant proved by a preponderance of the evidence that he is owed the claimed salary/wages, it is hereby ruled that the Wage Claim is valid.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$2,080.00, less any applicable taxes, within 20 days of the date of this Order.

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Melissa J. Delorey  
Hearing Officer

Date of Decision: April 3, 2015

MJD/kdc