

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Legacy Medical Solutions LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:44 IV liquidated damages
RSA 279:21 VIII unpaid overtime pay

Employer: Legacy Medical Solutions LLC, 5 Main St, Pittsfield, NH 03263

Date of Hearing: July 9, 2015

Case No.: 49794

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts she is owed \$2,500.00 in unpaid deferred wages the employer promised to pay her at end of year 2014. She argues the employer could only afford to pay her \$10.00 per hour, so he offered the \$2,500 deferral as an incentive. She also alleges she is due \$130.00 in unpaid regular wages and \$325.00 in unpaid overtime pay. She further seeks liquidated damages.

The employer denies the claimant was not paid for all time worked. He initially hired her for twenty hours per week at \$10.00 per hour. He denies any conversations regarding a \$2,500.00 deferral of wages or a \$15.00 hourly rate. The claimant did spend a considerable amount of time at his establishment that was not work time as she relied on Wayne Hughes, who was an employee at the time, for transportation. She worked on a number of personal items.

He paid the claimant for two invoices for work performed, \$230.00 on September 15, 2014 and \$290.00 on September 26, 2014. Upon her departure on November 12, 2014, he found a stack of invoices produced by the claimant. These invoices match checks from his account which are payable to the claimant. He has filed charges against the claimant for forgery and theft regarding these check payments.

He acknowledges Wayne Hughes probably did assign some tasks to the claimant, but he is unable to determine any hours worked.

FINDINGS OF FACT

The parties tell vastly different stories regarding the claimant's relationship and position with the employer.

The Hearing Officer finds that the claimant testified as credibly, not more credibly, than the employer. The claimant has the burden of proof in this matter to show by a preponderance of the evidence that she was not paid for all hours worked. The Hearing Officer finds that the claimant failed to meet that burden of proof as her story is only as credible as, not more credible than, the employer's. The claimant, therefore, fails to prove by a preponderance of the evidence that she is owed the claimed wages.

Because no wages are found to be owed, no liquidated damages can be awarded.

DISCUSSION

The claimant has the burden of proof in these matters to provide proof by a preponderance of evidence that her assertions are true.

Pursuant to Lab 202.05 "Proof by a preponderance of evidence" means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not.

The Hearing Officer finds the claimant failed to meet her burden in this claim.

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.

Melissa J. Delorey
Hearing Officer

Date of Decision: July 17, 2015

MJD/kdc