

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



V

**Inlanta Mortgage Inc**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:43 V unpaid employee expenses

**Date of Hearing:** May 21, 2015

**Case No.:** 49878

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts he is owed \$6,896.06 in unreimbursed employee expenses for September through December 2013.

The employer denies the claimant is due any expenses. The written policy outlines approval is required for all expenses, which the claimant did not seek.

**FINDINGS OF FACT**

The claimant worked for the employer from June 18, 2012 through December 26, 2013, when he resigned.

The claimant argues he is due employee expenses from September through December 2013. The employer had never required that he seek approval prior to September 2013. He submitted six expense reimbursement reports to the employer, totaling \$6,896.06. These reimbursements consisted of purchases and mileage on behalf of the employer. No reimbursement has been received.

The claimant did acknowledge that at some point in the late fall of 2013, possibly November, that the employer notified him that he would no longer receive expense reimbursements.

Both parties agree the claimed expenses are business related expenses.

RSA 275:49 III requires that the employer make available to employees in writing, or through a posted notice maintained in an accessible place, employment practices and policies regarding fringe benefits, including expense reimbursements. Lab 803.03 (b) requires employers to provide his/her employees with a written or posted detailed description of employment practices and policies as they pertain to paid

vacations, holidays, sick leave, bonuses, severance pay, personal days, payment of the employees expenses, pension and all other fringe benefits per RSA 275:49. Lab 803.03 (c) requires employers to inform his/her employees in writing of any change to such employees rate of pay, salary or employment practices or policies as referred to in Lab 803.03 (a) and (b) prior to the effective date of such change. Lab 803.03 (f) (6) requires an employer maintain on file a signed copy of the notification.

The employer notified the claimant pursuant to an August 1, 2012, agreement, in relevant part, "Notwithstanding any provision of this Agreement to the contrary, without the prior written consent of Company, Manager is not authorized on behalf of Company to: xi) pay any expenses for the bank of out any personal funds".

However, the employer also created a practice of paying employee expenses without first requiring the claimant to seek authorization.

RSA 275:43 V. Vacation pay, severance pay, personal days, holiday pay, sick pay, and payment of employee expenses, when such benefits are a matter of employment practice or policy, or both, shall be considered wages pursuant to RSA 275:42, III, when due.

The employer's argument that the fact they had never held the claimant to the written policy is irrelevant, is not persuasive. By not holding the claimant to the written policy, the employer created a practice which differs from the written policy. Lab 803.03 (c) requires employers to notify employees, in writing, as to any changes in employment practices or policies. The employer did not notify the claimant, in writing, that they had changed their practice of the payment of employee expenses.

The employer's argument that the claimant's branch office was operating in a deficit, is also not found to be persuasive. Again, Lab 803.03 (c) requires employers to notify employees, in writing, as to any changes in employment practices or policies. The employer did not notify the claimant, in writing, that they had changed their practice of the payment of employee expenses.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence that he is due the claimed expenses under the employer's practice of the payment of employee expenses, in the amount of \$6,896.06.

### **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 employee expenses, it is hereby ruled that the Wage Claim is valid in the amount of \$6,896.06.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$6,896.06, less any applicable taxes, within 20 days of the date of this Order.

---

Melissa J. Delorey  
Hearing Officer

Date of Decision: June 5, 2015

MJD/kdc