

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

JEREMIE STEFAN
dba C&B SNOW REMOVAL

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Jeremie Stefan dba C&B Snow Removal, 178 Towle Farm Rd, Hampton, NH 03842

Date of Hearing: August 27, 2015

Case No. 50324

BACKGROUND AND STATEMENT OF THE ISSUES

A Wage Claim was filed with the Department of Labor on April 23, 2015. The notice was sent to the employer and there was no written objection. The Notice of Hearing was sent to both parties on May 19, 2015. The employer did show up for the hearing.

The claimant testified that he applied to an ad on Craig's List seeking people to shovel snow. He was to be paid \$20.00 per hour. The claimant testified that the employer's mother would record starting and ending times. The claimant stated that he worked for 32 hours and was only paid \$100.00. He was never paid the remaining wages even though he made many attempts to get the pay. The Wage Claim is for \$540.00 in unpaid wages.

The employer testified that there were multiple people who worked for the hours requested. The snow removal was taking place at condominium units. He also said that the owners never paid him for the work performed.

The employer further stated that his mother dealt with the employees and that he has no way to pay the wages due. The employer also stated that he does not know the claimant.

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:

- (a) In lawful money of the United States;
- (b) By electronic fund transfer;
- (c) By direct deposit with written authorization of the employee to banks of the employee's choice;
- (d) By a payroll card provided that the employer shall provide to the employee at least one free means to withdraw up to and including the full amount of the employee balance in the employee's payroll card or payroll card account during each pay period at a financial institution or other location convenient to the place of employment. None of the employer's costs associated with a payroll card or payroll card account shall be passed on to the employee; or
- (e) With checks on a financial institution convenient to the place of employment where suitable arrangements are made for the cashing of such checks by employees for the full amount of the wages due; provided, however, that if an employer elects to pay employees as specified in subparagraphs (b), (c), or (d), the employer shall offer employees the option of being paid as specified in subparagraph (e), and further provided that all wages in the nature of health and welfare fund or pension fund contributions required pursuant to a health and welfare fund trust agreement, pension fund trust agreement, collective bargaining agreement, or other agreement adopted for the benefit of employees and agreed to by the employer shall be paid by every such employer within 30 days of the date of demand for such payment, the payment to be made to the administrator or other designated official of the applicable health and welfare or pension trust fund.

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 submission and the testimony of the parties, 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 claimant provided credible testimony that he responded to an ad for employment and was hired at a rate of \$20.00 per hour. He testified that the employer's mother took care of the time records and that he was only paid \$100.00 for time worked.

The employer testified that his mother took care of the employees and that he did not know most of them. He did say that the business for which he contracted his services never paid him the fees due.

The employer is responsible for wages due when an employee is hired. If an employer does not receive payment for the services performed, that does not negate the fact that the employer hired employee(s) and there is an obligation under the above referenced statute that said employer pay person(s) hired for all hours worked.

The Wage Claim is valid in the amount of \$540.00

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 Hearing Officer finds that the claimant

proved by a preponderance of the evidence that he was not paid all wages due, it is hereby ruled that the Wage Claim is valid in the amount of \$540.00.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED] in the total of \$540.00, less any applicable taxes, within 20 days of the date of this Order.

Thomas F. Hardiman
Hearing Officer

Date of Decision: September 22, 2015

TFH/kdc