

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



**V**

**Nationwide Recovery Services Inc**

**DECISION OF THE HEARING OFFICER**

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

**Employer:** Nationwide Recovery Services Inc, PO Box 51, Kingston, NH 03848

**Date of Hearing:** January 6, 2016

**Case No.:** 51821

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts he is owed \$435.00 in unpaid wages the transport of two vehicles for the employer, plus monies deducted from his wages for work performed on his personal vehicle by a separate company owned by the employer.

The employer denies the claimant was not paid for all time worked. They assert the claimant damaged their vehicle, which he agreed to have deducted from his check. Further, they performed work on his personal vehicle at his request. They do not have any record of the transports he claims as due.

The hearing was left open for the employer to submit documentation regarding the two transports the claimant alleges have not been paid.

The Department received documentation within the prescribed timeframe showing the claimant had received the claimed wages. The claimant was given until January 29, 2016, to respond. He did not provide a response to the Department.

**FINDINGS OF FACT**

The claimant argued he did not receive payment for two vehicles he transported on behalf of the employer, in the amount of \$110, a voided check dated October 23, 2015, of \$225.00, and \$100 (\$20 + \$80) deducted from his wages on October 3, 2015, for the repair of his brakes.

The employer submitted documentation to show the claimant did receive payment for the two transports he claimed to have made. The claimant did not respond to the employer's documentation.

The Hearing Officer finds the claimant failed to prove by a preponderance of the evidence he is due the claimed wages.

The claimant argues the employer voided a check number 41622 dated October 23, 2015, for a gross amount of \$225.00, documentation previously submitted.

The employer did not address this issue.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence he is due the claimed wages in the amount of \$225.00.

The claimant also argues the employer deducted \$100 from his wages for repairs he had performed on his personal vehicle. An October 3, 2015, AJA Auto Repair LLC slip shows a \$250 repair order for the claimant's car. The employer paid \$100 of the claimant's \$250 car repair bill to AJA Auto Repair LLC (a separate company also owned by the employer) as the claimant moved a camper for \$20 and moved an F150 in Marshfield for \$80. The employer did not pay the claimant directly for the \$20 and \$80 earned in wages.

The claimant texted the employer on or about September 28, 2015, previously submitted, asking "Will you please talk to Scott about my brakes and take a little bit out of each paycheck". The employer respond, "Will let you know".

The employer argues the claimant left a note, previously submitted, which authorized them to make deductions from his wages for the repair on his brakes and damages he made to the employer's vehicle.

By letter dated October 10, 2015, the claimant authorized the employer to "keep what is owed to me for what I owe you for my brakes plus for the mirror that I broke". The claimant stated that he did not sign page one of this letter, however, he did sign page two, and agreed that all of the content of the letter was written by his intention.

**RSA 275:48 Withholding of Wages. –**

I. No employer may withhold or divert any portion of an employee's wages unless:

(b) The employer has a written authorization by the employee for deductions for a lawful purpose accruing to the benefit of the employee as provided in regulations issued by the commissioner, as provided in subparagraph (d) or for any of the following:

(12) For any purpose on which the employer and employee mutually agree that does not grant financial advantage to the employer, when the employee has given his or her written authorization and deductions are duly recorded. The withholding shall not be used to offset payments intended for purchasing items required in the performance of the employee's job in the ordinary course of the operation of the business. Nothing in this subparagraph shall prohibit a charitable organization from withholding from an employee's wages a voluntary contribution to such charitable organization.

The claimant provided a written authorization via his request that the employer deduct the amounts owed for his brakes via text message. The employer provided a receipt showing the total charges and the deductions from his wages of \$100 total.

Though the employer could have documented the transaction in a better manner than a text message conversation, they did meet the requirements of RSA 275:48 I (b)(12).

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence he is due the claimed deductions from his 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 a portion of the claimed wages, it is hereby ruled that this portion of the Wage Claim is valid in the amount of \$225.00.

As RSA 275:48 I allows an employer make deductions from wages due an employee with proper authorization, and as this Department finds that the employer obtained the proper authorization for the deduction for the claimant's brakes, it is hereby ruled that this portion of the Wage Claim is invalid.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$225.00, 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: February 5, 2016

Original: Claimant  
cc: Employer

MJD/aph

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