

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Elemenope Principles Child Learning Center LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Elemenope Principles Child Learning Center LLC, 1201 Candia Rd,
Manchester NH 03109

Date of Hearing: February 22, 2016

Case No.: 51920

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant originally asserted, through the filing of her wage claim, that she was owed \$1,411.88 in unpaid wages for hours worked between April 25, 2012 and October 19, 2015, though she was only asking to be paid for \$1,000.00.

Prior to the hearing, she amended her claim to \$1,050.75 for unpaid work between November 22, 2012 and May 31, 2013, May 5, 2014 and June 6, 2014, and November 2014 and October 19, 2015, to comply with the statute of limitation of thirty-six months.

She states that the unpaid work was performed at home after her scheduled work hours in order to complete her weekly curriculum and monthly newsletter for her infant classroom.

The employer denies the claimant performed any work at home as they provided ample time to complete the monthly newsletter and weekly curriculum during work hours. Further, the claimant is an artist who creates wonderful artistry pieces for her classroom and as gifts for staff members, sometimes during work hours. They argue if she had time to work on such projects then she had time to complete the monthly newsletter and weekly curriculum during work hours as well.

FINDINGS OF FACT

The claimant worked for the employer from April 2012 through October 2015, with some gaps in service between those two dates. She received an hourly rate of \$10.50.

The claimant was the lead teacher in the infant room and responsible for creating a monthly newsletter and weekly curriculum for the families of the infants to review.

She argues she did not have enough time during her regular work day to complete the monthly newsletters and weekly curriculum sheets and completed the work at home.

She did not maintain contemporaneous records of her hours work. She and her daughter estimate that she worked one hour per week on the curriculum and one hour per month on the newsletter, between the dates of November 22, 2012 and May 31, 2013, May 5, 2014 and June 6, 2014, and November 2014 and October 19, 2015.

The claimant also articulates that she is only asking to be paid for the time she worked on the monthly newsletters and weekly curriculum, not any of the artwork she created at home.

The employer argues she provided ample time for the creation of the monthly newsletters and weekly curriculum during work hours and never instructed or allowed the claimant to take work home. She also provided the claimant a desk and computer upon her request, in order to complete these tasks in her classroom.

The claimant tells a passionate story that she performed work at home, though she did not keep any records of the time worked.

The employer tells an equally persuasive story that the claimant had ample time at work to complete the tasks she is alleging she performed at home.

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.

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: February 26, 2016

Original: Claimant
cc: Employer

MJD/aph