

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



**V**

**HOOPER GOLF CLUB**

**DECISION OF THE HEARING OFFICER**

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

**Employer:** Hooper Golf Club, PO Box 311, Walpole, NH 03608

**Date of Hearing:** May 9, 2016

**Case No.:** 52380

**BACKGROUND AND STATEMENT OF THE ISSUES**

A Wage Claim was filed with the Department of Labor on February 24, 2016. The notice was sent to the employer and there was an objection. The objection was sent to the claimant and there was a request for a hearing. The Notice of Hearing was sent to both parties on April 11, 2016. Both parties were telephonic for the hearing.

The claimant testified that he worked for the employer for several years. The wages for every year except the last year were based on a nine month schedule. The claimant testified that he was eligible for unemployment compensation for the other three months. It was the claimant's belief that the employer moved him to a year round schedule for the last year even though he was only required to work from March 1<sup>st</sup> to November 30<sup>th</sup> of the year.

The last year of employment the claimant signed a contract with the employer that would pay the claimant bi-weekly for the entire period of the contract. The claimant feels that this was done to avoid the payment of the unemployment tax. He feels that because he was laid-off in December, the employer owes him the balance of the contract because it was the employer's choice to spread his earnings over a twelve month period of time.

The claimant also testified that he was given a \$1,000.00 educational fund to take additional classes in golf course maintenance or license certifications. The claimant did not use any of the funds during his last year and so he feels that he is due the \$1,000.00 that was set aside for him to use.

The claimant also feels that there were several months when he was not covered by the health insurance. He was entitled to the full coverage for the individual plan.

It is the position of the claimant that although his salary was paid out over the full year, it was for work already done because there was no work in December, January or February.

The employer testified that the Hooper Golf Course was owned by the Town of Walpole and rented by a voluntary Board of Directors. The Hooper Golf Course was forced to close because the mounting debt was not being covered by membership dues. The Club is closed and the debts are trying to be worked out. There was no bankruptcy filing.

The employer testified that the last contract entered into by the claimant and the employer was based on a full year of salary. Both sides agreed to this format. The claimant was notified that he was being laid off in December of 2015. The claimant was paid for all wages until the lay-off stopped the provisions of the contract.

The employer also testified that the claimant never used any of the educational funds included in the contract. The testimony shows that there was no expense reports filed; the same is true on the health insurance; there was no claims made while the claimant was covered by the health insurance.

The employer maintains that all wages have been paid and there is no debt on the remainder of the wage contract.

### **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.

This section of the law mandates an employer to pay an employee all wages due at the time the wages are due and owing.

RSA 275:43-b A salaried employee shall receive full salary for any pay period in which such employee performs any work without regard to the number of days or hours worked; provided.

This part of the law spells out how and why a salaried employee is paid and the terms of the employment.

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.

This part of the law places an issue such as employee expenses into the category of wages when the expenses have been used on the behalf of the employer.

It is the finding of the Hearing Officer, based on the written submissions and the testimony of the parties, that the Wage Claim is invalid. The claimant has the burden to show that there are wages due and owing and he did not meet this burden.

The claimant did not prevail in his position that there was a proration of a set salary over twelve months. The wage contract was for a full calendar year and was to be paid during the "winter" months when the course was not open. At a certain point in time the Board of Directors had to close the course/club because of the mounting debt. When this was done, the claimant had been paid as required by the contract. In New Hampshire, as a "free will" State, the employee can quit at any time and the employer can let the employee go at any time. This is what happened in this case. The claimant was paid for all work done in accordance with the written contract.

The claimant does not prevail in the employee expenses as part of the Wage Claim. The claimant did not present any evidence or testimony that there had been an outlay of money suffered by the claimant for the good of the employer. There was no evidence that the claimant used the education fund or had health claims that were not paid.

The employer was credible that all wages had been paid and that there was no money due to the claimant. The Wage Claim is invalid.

### **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 the claimant failed to prove by a preponderance of the evidence that he was not paid all wages due, it is hereby ruled that the Wage Claim is invalid.

---

Thomas F. Hardiman  
Hearing Officer

Date of Decision: May 16, 2016

Original: Claimant  
cc: Employer

TFH/aph