

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Mansfield Auto Group Inc

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages/bonus
RSA 275:44 IV liquidated damages

Employer: Mansfield Auto Group Inc, 782 Gold St, Manchester NH 03103

Date of Hearing: June 1, 2016

Case No.: 52572

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$1,200.00 in unpaid bonus for a motivator board incentive for sales. He argues the employer notified him the board would become effective January 1, 2016, and was then told on January 5, 2016, that the motivator board would not be applicable. He further seeks liquidated damages.

The employer denies the motivator board incentive was implemented. Therefore, no wages are due and no liquidated damages can be awarded.

FINDINGS OF FACT

The claimant worked for the employer from October 5, 2015 through March 15, 2016. The claimant received a guaranteed monthly salary of \$3,000 for the first three months and then received 100% commission.

The claimant argues he received notification from Jen Kenney, controller and human resource representative for the employer, in December 2015 that the motivator board would become active on January 1, 2016. He argues she provided samples of spreadsheets. He also received an eight page sales representative orientation schedule which he signed but the employer did not. He further alleges the employer told him on January 5, 2016, that the motivator board would not be implemented.

The employer argues they never implemented the motivator board. As a new franchise as of October 2015, they did not have enough data to begin to implement such an incentive for their employees. The corporate office recommended having at least six to twelve months of sales data before implementing a motivator board. The store

opened December 8, 2015. The categories and amounts for incentive have still not been determined and the motivator board is still not implemented as of the date of the hearing.

The employer agreed Ms. Kenney may have shared the example of the motivator board at the December 4, 2015, meeting, but she did not implement the board's usage, nor did she have the authority to do so.

RSA 275:49 I requires that an employer inform employees of the rate of pay at the time of hire. Lab 803.03 (a) requires that an employer inform employees in writing of the rate of pay at the time of hire and prior to any changes. Lab 803.03 (f) (6) requires an employer maintain on file a signed copy of the notification.

The employer did not present the claimant with a written notification of the motivator board program's implementation. The claimant's argument that Ms. Kenney provided verbal notification at the December 4, 2015, meeting is not persuasive.

The Hearing Officer finds that the motivator board was not implemented and no payments are due to the claimant under that program.

Therefore, the Hearing Officer finds that the claimant fails to prove by a preponderance of the evidence that he is owed the claimed wages/bonus.

Because no wages are found to be owed, no liquidated damages can be awarded.

DISCUSSION

The claimant has the burden of proof in these matters to provide proof by a preponderance of evidence that his assertions are true.

Pursuant to Lab 202.05 "Proof by a preponderance of evidence" means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not.

The Hearing Officer finds the claimant failed to meet his burden in this claim.

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 he is owed the claimed wages/bonus, it is hereby ruled that this portion of the Wage Claim is invalid.

As RSA 275:44 IV holds an employer liable to an employee for liquidated damages if the employer willfully and without good cause fails to pay wages due in the time frame required by statute, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that the employer willfully and without good

cause failed to pay wages due in the time frame required, it is hereby ruled that the portion of the Wage Claim for liquidated damages is invalid.

Melissa J. Delorey
Hearing Officer

Date of Decision: June 15, 2016

Original: Claimant
Attorney
cc: Employer
Attorney

MJD/aph