

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

NEW ENGLAND FIRE EQUIPMENT AND APPARATUS

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43-b unpaid salary

Employer: New England Fire Equipment & Apparatus, 10 Stillman Road, North
Haven, CT 06473

Date of Hearing: July 13, 2016

Case No.: 52860

BACKGROUND AND STATEMENT OF THE ISSUES

A Wage Claim was filed with the Department of Labor on May 17, 2016. The notice was sent to the employer and there was no written objection. The Notice of Hearing was sent to both parties on June 22, 2016. The employer did submit a response and exhibits after they received the Notice of Hearing. The employer was telephonic for the hearing.

The claimant testified that he was a salaried employee and his position was terminated after one week into a pay period. The claimant further testified that he was terminated without cause and so he is due the remainder of the pay period. The amount of the Wage Claim is for \$538.41.

The employer testified that the claimant was terminated "for cause" due to the lack of sales produced. The employer also stated that the claimant was not turning in "call sheets" as required. The claimant was a salaried employee and was paid for his last four days of work. The employer believes that all wages have been paid.

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 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.

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 explains the rules governing the payment of salaried employees.

It is the finding of the Hearing Officer, based on the written submissions 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 testified credibly that he was paid for one of the weeks of his last pay period and not for the remaining week.

The employer testified that the claimant was terminated "for cause" yet they did not submit any notification to the claimant about the cause. The one document that was submitted was a payroll record and it shows the last day of work and that there was a termination.

The law is clear on when a salary can be stopped before the end of a pay period. In this case the employer did not show that there was "cause" for a termination and so the claimant is due the entire wages for the pay period.

The Wage Claim is valid in the amount of \$538.41.

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 \$538.41.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED] in the total of \$538.41, less any applicable taxes, within 20 days of the date of this Order.

Thomas F. Hardiman
Hearing Officer

Date of Decision: August 1, 2016

Original: Claimant
cc: Employer

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