

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

██████████

V
Nautilus Realty Group LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Nautilus Realty Group LLC, 1 Juniper Rd, N Hampton, NH 03862

Date of Hearing: October 31, 2016

Case No.: 52905

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts she is owed \$5,000 in unpaid wages for hours worked between April 12, 2016 through June 10, 2016, when she received written notice from the employer her employment was terminated. She argues she worked forty hours per week at a rate of \$20.00 per hour. She alleges she continued to arrive every day and perform her duties, even though ██████████ never returned to the office after April 12, 2016, and she was unable to contact him by any means.

The employer denies the claimant is due any wages. The employer was in a dispute with the claimant's father, whom she was aware had locked him out as of April 12, 2016.

FINDINGS OF FACT

The claimant worked for the employer beginning August 2015. The employer was locked out of the business location by the claimant's father on April 12, 2016. The employer sent an official letter of termination to the claimant on June 10, 2016.

There are a number of intertwined relationships in this dispute.

The employer had a business relationship with ██████████, the claimant's father. ██████████ had lent ██████████ funding to begin his business, Nautilus Realty Group LLC.

██████████ was also the landlord for the business address occupied by Nautilus Realty Group LLC. As of April 12, 2016, ██████████ locked ██████████ out of the business location, for non-payment of the leased space.

██████████ and ██████████ are in a bitter dispute as to who is running the business. This dispute is not at issue for this hearing.

The claimant denies any knowledge of her father locking ██████████ out of the business location or of any business dispute.

The claimant alleges she continued to work between April 12, 2016 and June 10, 2016, without compensation, because she was “afraid of being fired.” She argues she worked forty hours per week at \$20.00 hour, totaling \$5,000.

The employer argues the claimant was aware of the employer’s dispute with her father and that he no longer was allowed access to the work location. He further argues that any work performed after April 12, 2016, was for the benefit of her father, not for [REDACTED].

Whether the claimant knew of the dispute between her father and her employer is not relevant to the issue of whether wages are due, however, the credibility of her testimony is relevant, as there are no time records to show the time she alleges she performed work.

The claimant’s testimony that she worked between April 12, 2016 and June 10, 2016, for forty hours per week at \$20.00 per hour is not found persuasive. She did not provide any substantive documentation to corroborate her testimony of hours and dates worked.

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. Therefore, the Hearing Officer finds the claimant 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: November 8, 2016

Original: Claimant
cc: Employer
MJD/das