

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

SANBORNTON COUNTRY STORE

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Sanbornton Country Store, 666 New Hampton Rd, Sanbornton NH 03269

Date of Hearing: August 9, 2016

Case No.: 53077

BACKGROUND AND STATEMENT OF THE ISSUES

A Wage Claim was filed with the Department of Labor on June 14, 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 July 14, 2016.

The claimant testified that he worked for the employer for 181 hours, at two different locations, and should have been paid at the rate of \$8.00 per hour. The claimant did testify that he was paid \$100.00 in cash by the employer.

The employer testified that he was asked to help the claimant out by giving him a job. The employer testified that the claimant was working with a relative so that he could learn the American currency system. The employer did say that the claimant went through a 40 hour training period and did work a 9 hour shift.

The employer did testify that the claimant was never a full time employee because he did not produce the necessary paperwork for the employer to hire him. There was always a delay in getting the working papers. The employer did testify that he gave the claimant \$100.00 in cash to try and help him out while he was learning the system and getting his papers in order.

The employer testified that the claimant never worked at the Country Store because that location has a time card system and the claimant was never entered into the system.

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.

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 in part and invalid in part. The claimant has the burden to show that there are wages due and owing and he did show that there are some wages due.

There was no evidence as to the total of 181 hours worked. The claimant has the burden to establish a basis for finding that 181 hours were worked and he did not do this. The employer did testify that the claimant worked for a training period and then for a nine hour shift. The employer did testify that he gave the claimant \$100.00 to help him out while he was gathering his working papers.

The fact remains that the claimant did work for 40 hours in a training program and did work a shift of nine hours, one of which would have been at overtime pay. The Hearing Officer finds that the claimant did work forty-nine hours at the \$8.00 per hour rate. The claim shows that the total of 49 hours would be paid in the amount of \$392.00 plus an additional \$4.00 for overtime pay for one hour. The record also shows that the employer did pay \$100.00 in cash.

The Wage Claim is valid in the amount of \$296.00.

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 that he was not paid all wages due; it is hereby ruled that the Wage Claim is valid in the amount of \$296.00.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED] in the total of \$296.00, less any applicable taxes, within 20 days of the date of this Order.

Thomas F. Hardiman
Hearing Officer

Date of Decision: August 29, 2016

Original: Claimant
cc: Employer

TFH/aph