

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Ear Nose & Throat Physicians & Surgeons PA

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Ear Nose & Throat Physicians & Surgeons PA, 130 Tarrytown Rd,
Manchester NH 03103

Date of Hearing: August 15, 2016

Case No.: 53082

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant argues that she was an hourly employee who was informed that her hourly rate was being reduced from \$21.50 per hour to \$18.50. She asserts that she was only told this information verbally, not in writing as she should have been, and that she is, therefore, owed the difference between the hourly rate she should have earned and the hourly rate she was paid, \$3,971.97.

The employer argues that the claimant was told verbally that she was told that her hourly rate was being reduced, therefore no wages are due.

FINDINGS OF FACT

The claimant worked as an hourly employee. On June 17, 2014, the employer informed claimant that because she had been kept at a supervisor rate for over a year after her transition out of that position and to create parity with another employee in the same position, that her compensation would be reduced from \$21.50 per hour to \$18.50. The claimant was aware of this reduction.

The difference between what the claimant would have earned if her initial hourly rate had continued, and the reduced wages that she was paid, is \$3,971.97, according to the claimant's records.

RSA 275:49 I and II require that an employer inform employees of the rate of pay at the time of hire and upon any changes. 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 Hearing Officer finds that the employer was not in compliance with the requirements of Lab 803.03 (a) and (f)(6) when they did not inform the claimant, in writing, of the reduction in her hourly rate. The Hearing Officer also finds that this does not automatically guarantee the claimant her hourly rate of pay retroactively. The claimant was informed, verbally, that her hourly rate was being reduced. The claimant knew that she would not be receiving her previous hourly rate. The claimant, therefore, fails to prove by a preponderance of the evidence that she should now be retroactively paid her former rate of pay.

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 she was not paid all wages due; it is hereby ruled that the Wage Claim is invalid.

Melissa J. Delorey
Hearing Officer

Date of Decision: August 19, 2016

Original: Claimant
cc: Employer

MJD/aph