

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Albany Engineered Composites Inc

DECISION OF THE HEARING OFFICER

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

Employer: Albany Engineered Composites, Inc., 112 Airport Rd, Rochester, NH 03867

Date of Hearing: October 4, 2016

Case No.: 53497

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$5,820.75 in unpaid salary upon his termination from employment in June 2016. He alleges a representative from New Hampshire Employment Security told him the employer owed his full monthly salary for June 2016. Further, he was ineligible for New Hampshire Employment Security benefits for the period during which he should have received his salary from the employer.

At the hearing, he clarified he is due \$4,259.75, the balance of the \$5,820.75 salary for the month of June 2016, as he had received \$1,611.00 from the employer.

The employer argues that pursuant to the severance agreement signed by the claimant, any unpaid salary was part of the \$10,952.00 payment he received.

FINDINGS OF FACT

The claimant worked for the employer as a salaried employee paid on a monthly basis. His regular monthly salary was \$5,820.75. The employer terminated his employment on June 8, 2016, for which the employer paid his gross wages in the amount of \$1,611.00.

The employer offered the claimant a severance agreement, which both parties executed, the claimant on June 10, 2016, and the employer on June 13, 2016.

The claimant argues he is due the balance of his June 2016 monthly salary. He further alleges that RSA 275:43-b requiring payment of his salary overrides the language in the severance agreement.

The employer argues that section 7(a) of the severance agreement states the severance payment “may contain a pro rata payment to account for any partial or prepaid, but unearned salary.”

RSA 275:43-b requires that an employer pay a salaried employee their full salary for any pay period in which the employee performs any work. It also allows employers to make deductions to a salaried employee’s wages under certain circumstances, but none of those exceptions apply to the facts of this case.

While RSA 275:43-b does require the full payment of a salaried employee’s regular salary for a pay period in which the employee performs any work, it does not preclude an employer from using a severance agreement with express language that payments contained therein the agreement cover any salary due.

The employer expressly notified the claimant in section 7(a) of the severance agreement that this payment “may contain a pro rata payment to account for any partial or prepaid, but unearned salary.”

Therefore, the Hearing Officer finds the claimant has received his full salary for the month of June 2016, through the severance agreement, which he signed.

The Hearing Officer finds the claimant failed to prove by a preponderance of the evidence he is due the claimed unpaid salary.

DISCUSSION

The burden of proof lies with the claimant in these matters. The claimant has the burden to prove by a preponderance of the evidence that the claimed wages are due. Proof by a preponderance of evidence as defined in Lab 202.05 means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not.

The claimant failed to meet this burden.

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 RSA 275:43-b requires that a salaried employee received their salary, in full, for any pay period in which they perform any work, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that he was not paid all wages/salary due, it is hereby ruled that the Wage Claim is invalid.

Melissa J. Delorey
Hearing Officer

Date of Decision: October 18, 2016
Original: Claimant
cc: Employer

MJD/das