

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Cuz Insulation LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:42 I/II employer/employee relationship

Employer: Cuz Insulation LLC, 72 Threshing Mill Rd, Sanbornton NH 03269

Date of Hearing: October 31, 2016

Case No.: 53600

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$10,000.00 in unpaid wages for hours worked between August 25, 2015 and June or July 2016. He argues he had a gentleman's agreement with the employer for \$20 per hour initially and then he would be put on salary at a later date. He alleges he worked 25-30 hours per week, and received a total of \$5,300. He admitted this was a "guess-timate" in his head; he did not do an actual calculation.

Cuz Insulation, LLC. denies the claimant was an employee. He and his wife welcomed the claimant and his wife into their home to help them save money in order to save money to move to Florida, their dream home. The initial \$2,000 he paid the claimant was for watching their home and to buy items needed for their home. The remaining \$3,300 was to get the claimant to leave their home. He admits this money was paid from his business checking account.

FINDINGS OF FACT

The claimant argues he was an employee of Cuz Insulation LLC and was not paid for all wages due.

He previously submitted documentation from the City of Franklin stating that he performed work for Cuz Insulation LLC. The documentation showed a date of meeting minutes from May 21, 2009, stating the claimant had installed equipment on behalf of Cuz Insulation LLC, though the letter was dated August 29, 2016. The letter does not state a date of any work performed. The claimant admitted he supplied the information to the City of Franklin to write the letter.

Cuz Insulation LLC flatly denies the claimant was an employee.

The Hearing Officer finds that the claimant testified as credibly, not more credibly, than Cuz Insulation LLC. The claimant has the burden of proof in this matter to show by a preponderance of the evidence that he was an employee and that he was not paid for all hours worked. The Hearing Officer finds that the claimant failed to meet that burden of proof as his story is only as credible as, not more credible than, the Cuz Insulation LLC. The claimant, therefore, fails to prove by a preponderance of the evidence that he is owed the claimed wages.

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 this Department finds that the claimant failed to prove by a preponderance of the evidence that he was an employee and subsequently 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