

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF LABOR**  
**CONCORD, NEW HAMPSHIRE**

[REDACTED]

**V**

**Genter Healthcare Inc**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:48 I illegal deductions

**Employer:** Genter Healthcare Inc., PO Box 478, New London, NH 03257

**Date of Hearing:** December 13, 2016

**Case No.:** 54206

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts he is owed \$66.11 in unpaid wages for 6.01 hours worked week ending October 14, 2016. The employer illegally deducted a negative balance of earned time from his final pay check.

The employer argues the claimant signed an initial offer letter which informed him that negative earned time balances would be deducted from final wages.

**FINDINGS OF FACT**

The claimant worked for the employer from June 20, 2016 through October 14, 2016. He initially received a salary; however, the employer properly noticed the claimant a change to an hourly rate of payment for wages for his final week of work.

The claimant argues the employer cannot deduct the negative balance of earned time from his wages because the salary agreement was invalidated when he was changed to an hourly rate.

The employer argues the initial offer letter allows for the deduction of a negative earned time balance upon separation. They agree the claimant did not sign any other documents relative to his earned time request or the deduction from his final wages.

RSA 275:48 Withholding of Wages. –

I. No employer may withhold or divert any portion of an employee's wages unless:

(f) The employer has a written request from the employee, made at the time of the original request without coercion or pressure, that authorizes the employer to deduct from the employee's final wages at the termination of employment any amount the employee may owe for voluntary payments for vacation pay, paid time off pay, earned time pay, personal time pay, annual pay, sick pay, sick dependent pay, and

bereavement pay made pursuant to a written employment policy as required by RSA 275:49, III, when the payments have been requested and paid to the employee in advance of eligibility.

The employer did not have a written request from the claimant, made at the time he requested to take time off, with an authorization to allow the employer to deduct any negative earned time balance from his final wages. A general statement in an offer letter or employee handbook does not comply with the requirements of the statute.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence he is due the claimed illegal deductions in the amount of \$66.11.

### **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 met this burden.

### **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 RSA 275:48 I allows an employer make deductions from wages due an employee with proper authorization, and as this Department finds that the employer failed to obtain the proper authorization for the deduction for the negative earned time balance, it is hereby ruled that the Wage Claim is valid in the amount of \$66.11.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$66.11, less any applicable taxes, within 20 days of the date of this Order.

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Melissa J. Delorey  
Hearing Officer

Date of Decision: December 16, 2016

Original: Claimant  
cc: Employer

MJD/das