

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



**V**

**Rozzie Mae Animal Alliance**

**DECISION OF THE HEARING OFFICER**

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

**Employer:** Rozzie Mae Animal Alliance, PO Box 1756, Conway, NH 03818

**Date of Hearing:** December 21, 2016

**Case No.:** 54016

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts she is owed \$2,476.97 in unpaid salary. She alleges she did not receive her full salary for the pay period ending January 16, 2014; the employer illegally reduced her salary for the pay periods ending January 1, 2015 and January 15, 2015; and she was forced to use her flextime/vacation time for the pay period ending December 17, 2015. She vehemently argues she never agreed to let the employer reduce her salary.

The employer denies the claimant was not paid for all time worked. They assert that the claimant requested to have one day unpaid for the pay period ending January 16, 2014. They argue they received notification from her boss that they had discussed a 30% reduction in salary prior to the change, which then was negotiated to 25%. They also stated that they notified the claimant she was required to use her flex time/vacation time for the pay period ending December 17, 2015.

**FINDINGS OF FACT**

The claimant argues the employer did not pay her for one day in the pay period ending January 15, 2014.

The employer argues they did not pay the claimant at her request to take the time off unpaid to use her benefit time at a later date.

The claimant disagrees.

RSA 275:43-b Payment of Salaried Employees. –

I. A salaried employee shall receive full salary for any pay period in which such employee performs any work without regard to the number of days or hours worked; provided, however, a salaried employee may not be paid a full salary in each of the following instances:

(c) If an unpaid leave of absence for a salaried employee is allowed pursuant to a written bona fide plan, policy or practice for absences, of a full day or more, of an

employee caused by bereavement leave.

The employer did not grant an unpaid absence in accordance with the above statute.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence she is due the claimed one day of salary in the amount of \$146.92.

The claimant argues she was required to use her flex time to cover her salary for the pay period ending December 17, 2015. She argues she is due the salary payment for the flex time she was required to use for this time period, which would have been payable upon her separation from employment.

The employer argues they notified the claimant she was to use her flex time because there was little work and she worked a schedule of just a few hours.

The employer notified the claimant prior to pay period in which she used the flex time that she would be required to use the flex time to cover the days she was not working over the holiday season.

The employer properly notified the claimant she would be required to use her flex time to cover the days she would not be working, prior to the use of the flex time.

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence she is due the claimed unpaid salary for the pay period ending December 17, 2015.

The claimant argues she is due \$881.28 for the pay period ending January 1, 2015, as she received a partial payment of \$587.95. She argues that though there is no record of her performing any work during the pay period, she is "sure she did some" work.

The employer argues they paid the claimant for ten hours which she worked for each week in the pay period, not her full salary, but they could have used her flex time and did not. As she received a payout of her flex time, she is not due any further wages.

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.

Therefore, the Hearing Office finds the claimant proved by a preponderance of the evidence she is due the claimed salary in the amount of \$881.28 for the pay period ending January 1, 2015.

The claimant argues the employer illegally reduced her salary for the pay period ending January 15, 2015. She further argues she never agreed to the reduction. She seeks the balance of her regular salary as due.

The employer argues the claimant with her supervisor agreed to the salary and they notified her in December 2014 that her salary would be reduced for the pay period beginning January 1, 2015.

RSA 275:49 I requires that an employer inform employees of the rate of pay at the time of hire. 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 employer properly noticed the claimant of the initial reduction in her salary of 30%, via email, in December 2014. There were further verbal discussions and the ultimate reduction to salary was 25%.

The claimant's argument that she did not agree to the reduction in salary is not found persuasive. There is no requirement in the statute or rule that an employee agree to a change in pay, only that they receive notification of the change prior to the effective date, which she did.

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence she is due any salary for the pay period ending January 15, 2015.

### **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 275:43-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 proved by a preponderance of the evidence that she was not paid a portion of the claimed salary, it is hereby ruled that the Wage Claim is valid in the amount of \$1,028.20 (\$146.92 + \$881.28).

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$1,028.20 (\$146.92 + \$881.28), 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: January 11, 2017

Original: Claimant  
cc: Employer

MJD/das