

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Peaked Moon Farm

DECISION OF THE HEARING OFFICER

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

Employer: Peaked Moon Farm, 99 Rte. 25, Piermont, NH 03779

Date of Hearing: January 23, 2017

Case No.: 54245

BACKGROUND AND STATEMENT OF THE ISSUES

This hearing was consolidated with another claimant, Michael Lewis, with the same employer. Separate decisions have been issued for these cases.

The claimant asserts she is owed \$3,152.50 in unpaid wages for hours worked between May 26, 2016 and October 1, 2016, and \$81.95 in unpaid employee expenses. She argues that she and Mr. Lewis had an agreement with the employer for \$11.00 per hour for all hours worked.

The employer denies the claimant is an employee. He never formally hired her.

FINDINGS OF FACT

Hal Covert runs two other businesses, Bickford Homestead, LLC and Peaked Moon Market, LLC which run independently of Peaked Moon Farm, which is a sole proprietorship.

Bickford Homestead, LLC and Peaked Moon Market, LLC both have employees under their payroll. Peaked Moon Farm does not have any employees on payroll.

Peaked Moon Farm engages in farm labor as defined in Lab 802.06.
RSA 275:42 Definitions. – Whenever used in this subdivision:

I. The term "employer" includes any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person, except employers of domestic labor in the home of the employer, or farm labor where less than 5 persons are employed.

Lab 802.06 "Farm labor" as used in RSA 279:21, I and RSA 275:42, I means all work performed in agriculture including cultivation and tillage of the soil, dairying, growing and harvesting of any agriculture or horticultural commodities, the raising of livestock, bees, fur bearing animals or poultry and any practices performed by a farmer on a farm. "Farm labor" does not include the retailing of goods other than the products produced by the farm.

Even if the claimant and Mr. Lewis were found to be employees, pursuant to RSA 275:42 I, Peaked Moon Farm employs less than five employees engaged in farm labor, as defined by Lab 802.06.

Therefore, the Hearing Officer finds the claimant is not an employee of an employer. As such, this Department does not have jurisdiction over this claim.

DECISION

Based on the testimony and evidence presented, as RSA 275:51 V affords the Wage Claim process to employees of employers only, it is hereby ruled that the Wage Claim is invalid due to a lack of jurisdiction by this Department.

Melissa J. Delorey
Hearing Officer

Date of Decision: January 24, 2017

Original: Claimant
cc: Employer

MJD/das