

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Cataleya's Caribbean Grill LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Cataleya's Caribbean Grill LLC, 420 Main St, New London, NH 03257

Date of Hearing: April 5, 2017

Case No.: 54472

BACKGROUND AND STATEMENT OF THE ISSUES

This hearing was consolidated with another wage claim hearing against the same employer. Separate decisions have been issued for these hearings.

The claimant asserts she is owed \$3,162.00 in unpaid wages for hours worked between September 24, 2016 and November 15, 2016.

The employer denies the claimant is due any further wages.

FINDINGS OF FACT

The claimant worked for the employer between September 24, 2016 and November 15, 2016, when she resigned. She argues did not receive any pay for twenty-five days at ten hours per day at a rate of \$12.00 per hour, totaling \$3,000; and ten days at five hours per day at a rate of \$3.25 per hour, totaling \$162.50, for a grand total of \$3,162.

She acknowledges she received a check for \$500 for personal errands and use of her vehicle, not wages.

She argues that she had a text message conversation with the employer in which they agreed to pay her past hours and \$12.00 going forward.

The employer argues the claimant has been paid all wages due. She argues the text conversation references wages going forward, not agreement that she was due any prior wages.

The text messages, previously submitted, show the claimant submitting the same claim for this hearing to the employer. None of the messages from the employer acknowledge that she is due wages and that they are agreeing she will be paid.

Both parties tell a passionate story. The Hearing Officer finds that the claimant testified as credibly, not more credibly, than the employer. The claimant has the burden of proof in this matter to show by a preponderance of the evidence that she worked specific dates and was not paid for all wages due. The Hearing Officer finds that the claimant failed to meet that burden of proof as her story is only as credible as, not more credible than, the employer's. The claimant, therefore, fails to prove by a preponderance of the evidence that she is owed the claimed wages.

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 she is owed the claimed wages, it is hereby ruled that the Wage Claim is invalid.

Melissa J. Delorey
Hearing Officer

Date of Decision: April 6, 2017

Original: Claimant
cc: Employer
Employer's Attorney

MJD/das