

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



**V**

**Seacoast Helicopters LLC**

**DECISION OF THE HEARING OFFICER**

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

**Employer:** Seacoast Helicopters LLC, 44 Durham St, Portsmouth, NH 03801

**Date of Hearing:** May 2, 2107

**Case No.:** 54481

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts he is owed \$2,269.33 in unpaid wages and salary. At the hearing, he clarified he is seeking \$1,813.33 in unpaid salary for the period of November 1 through November 16, 2016; \$282.50 for 11.3 hours of Charter 133 Time at \$25 per hour; \$40 for one A&P hour; and \$133.50 for 8.9 regular training hours at \$15 per hour.

The employer agrees the claimant is due some wages, totaling \$1,350, however, the claimant owes \$4,305 back to the employer. The employer suggests they simply “go our separate ways and call it even.”

**FINDINGS OF FACT**

The claimant worked for the employer as the Chief Pilot until November 9, 2016, the day he resigned. He earned a monthly salary of \$3,400. He did have a single phone call with an inspector on behalf of the employer on November 16, 2016, for approximately five minutes. He claims he performed other activities for the employer for up to thirty additional minutes on the same day.

The employer argues the claimant owes him \$4,305, which is calculated at the employer’s cost, not the retail rate, which should offset the \$1,350 he agrees the claimant is due.

There is simply no statutory authority for this Department to award an offset to an employer for monies owed by an employee in this matter. The employer may have a cause of action in another venue.

The claimant seeks \$1,813.33 in unpaid salary for the period of November 1 through November 16, 2016, calculated at 16/30 of his regular \$3,400 monthly salary.

The employer argues the claimant resigned effective November 9, 2016, and did not perform any work after that date. He needed only to advise the inspector he was available for the employer, and did not perform any work.

The claimant resigned effective November 9, 2016. He credibly testified on that date he did not have any plans or anticipate performing any work for the benefit of the employer. He performed no work between November 10 and November 15, 2016. He did have a single five minute phone call with an inspector on the employer's behalf on November 16, 2016.

Pursuant to RSA 275:43-b II, the employer may prorate salary to a daily basis when a salaried employee terminates of his own accord before the end of a pay period, or is terminated for cause by the employer. The claimant terminated of his own accord on November 9, 2016, with no anticipation of performing work for the employer going forward.

There was no "meeting of the minds" between the parties for payment or expectation of payment for the phone call on November 16, 2016. Further, there was no reasonable expectation that the claimant's prior salary would continue after his November 9, 2016, resignation.

Therefore, the Hearing Officer finds the claimant proved by preponderance of the evidence he is due the salary for the period of November 1 through November 9, 2016, or \$1,020 ( $\$3,400 \times 9/30$ ).

The parties agree the claimant is due \$282.50 for 11.3 hours of Charter 133 Time at \$25 per hour and \$40 for one A&P hour.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence he is due the claimed wages in the amount of \$282.50 and \$40.

The claimant argues he is due \$133.50 for 8.9 regular training hours at \$15 per hour.

The employer does not disagree that the claimant worked the 8.9 hours as claimed. However, he argues that because the claimant did not complete the arrangement in place for the flight training hours with another pilot, he is not due the claimed pay. He is willing to concede payment for .5 hours of regular training at \$15.

The employer's argument that the claimant did not complete an arrangement is not persuasive as he acknowledges the claimant did perform the work, even if the claimant did not follow through on his end of the bargain.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence he is due the claimed wages in the amount of \$133.50.

### **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 resigning of his own accord receive his prorated daily salary, and as this Department finds that the claimant proved by a preponderance of the evidence that he was not paid all wages/salary due, it is hereby ruled that this portion of the Wage Claim is valid in the amount of \$1,020.

As RSA 275:43 I requires that an employer pay all wages due an employee, and as this Department finds that the claimant proved by a preponderance of the evidence that he was not paid all wages due, it is hereby ruled that this portion of the Wage Claim is valid in the amount of \$456 (\$282.50 + \$40 + \$133.50).

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$1,476 (\$1,020 + \$282.50 + \$40 + \$133.50), 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: May 19, 2017

Original: Claimant  
cc: Employer

MJD/das