

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



**V**

**James Jones dba Jones Snowplowing**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:43 V unpaid employee expenses  
RSA 275:48 I/II illegal deductions  
RSA 279:21 VIII unpaid overtime wages

**Employer:** James Jones dba Jones Snowplowing, 20 Atlantic Ave, N Hampton, NH  
03842

**Date of Hearing:** April 24, 2107

**Case No.:** 54551

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts he is owed \$1,750.00 in unpaid overtime wages/illegal deductions/employee expenses as the employer withheld \$400 per month and any overtime pay for the payment of his rent.

The employer denies the claimant is due any wages. The deductions made from the claimant's wages were pursuant to an agreement between the parties for the employer to pay the claimant's rent to ensure he had a place to live.

The employer properly remitted all the deductions from the claimant's wages to the proper rental property owners.

**FINDINGS OF FACT**

The parties had a verbal agreement for the employer to deduct \$400 per month from the claimant's wages to pay the claimant's rent. It was the claimant's responsibility to ask for the check on the first of the month for the employer to send the check. Often, the claimant did not ask for the check until later in the month, which incurred additional late fees.

The claimant was a salaried employee, and therefore, no overtime wages would be applicable.

The claimant argues the employer deducted \$1,750 from his wages and did not pay the rental property owner or return the money to him.

The employer provided credible testimony and evidence, Defendant's Exhibit #1 that all wages deducted from the claimant's wages were remitted to the proper rental property owners, including a month in which the employer paid the claimant's rent to two different rental property owners.

RSA 275:48 Withholding of Wages I (b) allows an employer to make certain deductions from an employee's wages if they have first secured a written authorization by the employee for deductions, for a lawful purpose accruing to the benefit of the employee as provided in regulations issued by the commissioner.

Though the employer did not secure a written authorization, the parties agree they had a verbal agreement was in place.

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence he is due the claimed unpaid overtime wages/illegal deductions/employee expenses.

### **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 he is owed the claimed unpaid overtime wages/illegal deductions/employee expenses, it is hereby ruled that the Wage Claim is invalid.

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Melissa J. Delorey  
Hearing Officer

Date of Decision: May 11, 2017

Original: Claimant  
cc: Employer

MJD/das