

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

White Mountain Aquatic Center Inc

DECISION OF THE HEARING OFFICER

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

Employer: White Mountain Aquatic Center Inc, PO Box 767, N Conway, NH 03860

Date of Hearing: March 20, 2017

Case No.: 54600

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts she is owed \$2,917.62 in unpaid salary between March 2016 and January 2017. She amended her claim for an additional \$400 in unpaid salary.

The employer denies the claimant was not paid for all salary due.

FINDINGS OF FACT

The claimant worked for the employer from July 2015 through her resignation in January 2017. She began with a monthly salary of \$500, a \$200 monthly gas card, and the employer paid for her cell phone (approximately \$100 monthly).

The claimant argues the Board of Directors approved a \$400 monthly increase to her salary in March 2016.

The claimant informed the employer she was not able to take the \$400 monthly increase without affecting her health insurance coverage.

The parties had discussions on how to provide this funding to the claimant outside the wage process. The employer did begin paying the claimant's cable bill in June 2016, in the amount of \$113.73 monthly. In December 2016, she put her proposal to the employer in writing for a business trip for the balance of the \$400 she had not been receiving each month. The employer did not respond.

She now seeks the back pay she did not receive of \$400 per month for March, April, May, June, July, August, September, October and November 2016, totaling \$3,600, less the payment of the monthly cable bill (including internet connection) of \$113.73 for June, July, August, September, October, and November 2016, totaling

\$682.38, for a balance of \$2,917.62. She amended her claim to add an additional \$400 for January 2017. She produced payroll for December 2016 and did pay herself the \$400 increase for that month.

The employer argues the claimant was initially offered a \$1,000 monthly salary, which she rejected because she was concerned she would lose her health insurance.

The claimant approached Joe Kwasnik about an increase in her monthly wages to \$900. The employer felt the claimant's compensation was \$800, with her \$500 monthly salary, \$200 monthly gas card, and the cell phone reimbursement of approximately \$100 monthly. Therefore, the increase to a \$900 monthly wage would only represent an additional \$100, not the \$400 the claimant alleges.

The employer began paying the claimant's cable bill (including internet connection) of \$113.73 in June 2016, and did so throughout the balance of her employment, which covered the requested increase for a \$900 monthly compensation package.

The claimant agrees the employer did not notify her in writing of any change to her rate of pay of \$500 monthly, or any of her other compensation.

It is not clear what the Board of Directors discussed or approved as an increase in compensation for the claimant. It is also not clear if the discussions were for a total compensation package or for cash wages to the claimant.

The claimant clearly refused any wage increase offered in March 2016, because of her concern for her health insurance. Both parties agree there were no discussions that any payments she chose not to take were to accumulate for later payment.

Because the claimant refused the wages increase offered, whether it was for \$100 or \$400 monthly, the employer has no obligation to pay for any increase they may have offered.

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence she is due 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: March 23, 2017

Original: Claimant
cc: Employer

MJD/das