

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Pasquale's Restaurant LLC

DECISION OF THE HEARING OFFICER

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

Employer: Pasquale's Restaurant LLC, 87 Nashua Rd, Londonderry, NH 03053

Date of Hearing: April 27, 2107

Case No.: 54845

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts she is owed \$1,730.76.00 in unpaid salary for two weeks of work, at a rate of \$865.38 per week between July 25, 2016 and August 7, 2016. She seeks interest on this claim

The employer denies the claimant was not paid for all time worked. They testified she was not hired until the week of August 8, 2016, for which she received a payroll check.

FINDINGS OF FACT

The claimant worked for the employer from July 25, 2016 through February 15, 2017, when the employer terminated her employment. She was a salaried employee earning a weekly rate of \$865.38.

The claimant argues she began work on July 25, 2016. She was originally hired as a bartender, but the employer brought her on as a general manager after reviewing her resume. Beginning July 25, 2016, she reviewed the employee handbook making changes and participated in a job fair to hire staff. She also put together training materials and revamped the application for employment.

The employer argues the claimant did not begin work until August 8, 2016, and she received a payroll check for that salary.

The Hearing Officer finds the claimant provided credible testimony and evidence that she was performing work for the benefit of the employer between July 25, 2016 and

July 31, 2016 and August 1, 2016 and August 8, 2016, and did not receive any salary for these two weeks.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence she is due the claimed salary in the amount of \$1,730.76.

DISCUSSION

The burden of proof lies with the claimant in these matters. The claimant has the burden to prove by a preponderance of the evidence that the claimed wages are due. Proof by a preponderance of evidence as defined in Lab 202.05 means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not.

The claimant met this burden.

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 received their salary, in full, for any pay period in which they perform any work, 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 \$1,730.76.

The claimant requested statutory interest on this claim. Pursuant to RSA 524:1-b statutory interest is calculated from the date of writ, or the filing of the petition, in this case February 27, 2017, to the date of judgment, or May 15, 2017, on the judgment of \$1,730.76. The claimant is awarded \$8.99 in statutory interest, based on the 2017 interest rate of 2.4%, as determined by the State Treasurer.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$1,739.75 (\$1,730.76 + \$8.99), less any applicable taxes, within 20 days of the date of this Order.

Melissa J. Delorey
Hearing Officer

Date of Decision: May 15, 2017

Original: Claimant
cc: Employer

MJD/das