

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Genesis Healthcare Corp dba Langdon Place of Nashua

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43 V unpaid vacation pay and holiday pay

Employer: Genesis Healthcare Corp dba Langdon Place of Nashua, 319 E Dunstable Rd, Nashua NH 03062

Date of Hearing: May 8, 2107

Case No.: 54923

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant originally asserted, through the filing of her wage claim, that she was owed \$1,927.31 in unpaid vacation pay and \$199.52 in unpaid holiday pay.

The employer paid the holiday pay prior to the hearing and the claimant is now seeking only the unpaid vacation pay.

The employer denies the claimant is due any vacation pay pursuant to the written policy.

FINDINGS OF FACT

The claimant worked for the employer from June 22, 2007 through January 20, 2017, when she resigned.

The claimant argues the employer provided a buyback program for vacation pay. She submitted her request to participate in the buyback program on January 7, 2017. She subsequently tendered her resignation on January 12, 2017, with an effective date of January 20, 2017. The employer refused to pay the vacation pay because she resigned.

The employer argues that the written policy states, "Accrued unused vacation and acquisition vacation carry hours will not be paid at termination."

The flyer for the vacation buyback program stated only that an employee must have been employed prior to January 1, 2014. The program was only available between January 1, and April 1, 2017. The claimant made her request to participate in the

vacation buyback program on January 7, 2017. She submitted her resignation on January 12, 2017, effective January 20, 2017.

Nothing in the notice for the buyback program notified the claimant that submitting her resignation would negate her request for the vacation buyback program.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence she is due the claimed vacation pay in the amount of \$1,927.31.

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 V considers vacation pay to be wages, when due, if a matter of employment practice or policy, or both, and as this Department finds that the claimant proved by a preponderance of the evidence that she is due the claimed vacation pay, it is hereby ruled that the Wage Claim is valid in the amount of \$1,927.31.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$1,927.31, less any applicable taxes, within 20 days of the date of this Order.

Melissa J. Delorey
Hearing Officer

Date of Decision: May 23, 2017

Original: Claimant
cc: Employer

MJD/das