

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

110 Technology LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43 V unpaid employee expenses and vacation pay
RSA 275:44 IV liquidated damages

Employer: 110 Technology LLC, 27 Technology Dr, Nashua, NH 03060

Date of Hearing: July 5, 2017

Case No.: 55244

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant originally asserted, through the filing of her wage claim, that she was owed \$13,575.50 in unpaid employee expenses and \$2,870.40 in unpaid vacation pay due upon her separation from employment. She further sought liquidated damages.

At the hearing, the claimant removed the claim for liquidated damages. She also advised that she had received payment of \$12,886.90 towards the employee expenses, leaving a balance of \$688.60. She opted to continue for this balance and the unpaid vacation pay.

The employer agreed to pay the \$688.60 in outstanding expenses and agreed to pay four hours of vacation pay. They wished to see additional credit card statement to ensure nothing further was due to the claimant, and then they would remit the check.

The hearing was left open until 4:30pm on July 21, 2017, for the claimant to submit additional credit card statements to ensure no further payments were due to her from the employer. The claimant submitted the documents to the employer. The employer remitted a check in the amount of \$556.75, rather than the agreed upon \$688.60 as the credit card statements showed an additional credit on behalf of the employer in the amount of \$131.85. The claimant agreed the \$556.75 was acceptable.

FINDINGS OF FACT

The parties agree the claimant is due \$556.75 in unpaid employee expenses.

The claimant also presented credible testimony and evidence that the claimed employee expenses were due.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence she is due the claimed employee expenses in the amount of \$556.75 and has been paid in full.

The claimant further sought one hundred four hours of vacation pay, or \$2,870.40, as she had these hours showing on her paystub.

The employer originally agreed to pay four hours as they argued the vacation time accrues over the course of the year, but did not send payment.

The claimant did not wish to settle for the four hours of vacation time.

Pursuant to RSA 275:49, the employer properly noticed the claimant of the policy and practice as pertaining to vacation time in the employee handbook.

The handbook reads, in relevant part, "Time off pay will not be granted in lieu of taking the actual time off."

The Hearing Officer finds the employer properly noticed the claimant that no payment is provided for vacation time if it is not used.

Therefore, the Hearing Officer finds the claimant failed to prove she is due any vacation pay under the written policy of the employer.

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 the payment of employee expenses 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 was not paid all employee expenses due, it is hereby ruled that this portion of the Wage Claim is valid in the amount of \$556.75 (\$688.60 - \$131.85) and this amount has been paid in full.

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 failed to prove by a preponderance of the evidence that she is due any vacation pay, it is hereby ruled that this portion of the Wage Claim is invalid.

Melissa J. Delorey
Hearing Officer

Date of Decision: August 3, 2017

Original: Claimant
cc: Employer

MJD/das