

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Seacoast Imported Auto Inc dba Honda Barn

DECISION OF THE HEARING OFFICER

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

Employer: Seacoast Imported Auto Inc dba Honda Barn, PO Box 210, Stratham, NH
03885

Date of Hearing: July 3, 2017

Case No.: 55259

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$1,064 in unpaid vacation pay due upon his separation.

The employer denies the claimant is due any vacation pay as he used more vacation time than he had accrued in his bank.

FINDINGS OF FACT

The claimant worked for the employer from February 2013 through May 11, 2017.

The claimant argues he is due one hundred thirty-six hours of vacation pay which shows on his final pay stub, as a negative one hundred thirty-six hours. He contends available vacation pay has always shown as a negative number. He also argues his records show fewer days off than the records of the employer.

The employer provided credible testimony and evidence, Defendant's Exhibit #1, that the claimant had used more vacation and sick time than he had accrued in his bank.

The claimant's argument that the time is on his paystub is not persuasive on its own merit.

Both parties submitted documentation to show days taken off by the claimant, which vary greatly.

The Hearing Officer finds that the claimant presented evidence which is as credible, but not more credible, than the employer's evidence. The claimant has the burden of proof in this matter to show by a preponderance of the evidence that he was not paid for all vacation pay due. The Hearing Officer finds that the claimant failed to meet that burden of proof as his story and evidence is only as credible as, not more credible than, the employer's. The claimant, therefore, fails to prove by a preponderance of the evidence that he is owed the claimed vacation pay.

DECISION

Based on the testimony and evidence presented, 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 he 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: July 12, 2017

Original: Claimant
cc: Employer

MJD/das