

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

v

VCA, Inc.

DECISION OF THE HEARING OFFICER

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

Employer: VCA, Inc., 12401 West Olympic Blvd., Los Angeles, CA 90064

Date of Hearing: July 27, 2017

Case No.: 55274

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant contends through the filing of a wage claim that she is due twenty-five and twelve hundredths hours of vacation time valued at \$326.56.

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

FINDINGS OF FACT

The claimant was an employee of VCA, Inc. / CAVES in the capacity of customer services representative from September 2, 2016, until resigning on May 22, 2017.

The claimant argued she is owed \$326.56 for vacation time accrued prior to her separation.

On a number of occasions the claimant requested to use her accrued vacation time. The employer denied these requests citing staffing issues as the reason.

The claimant argues that because the employer did not honor her requests to use her time while she was an employee, she should now receive the monetary equivalent.

The employer holds that the company's policy states there is no payout of vacation hours when employment terminates.

The employer previously submitted an exhibit addressing the company's vacation policy, it reads, in part, "Requests will be evaluated based upon various factors,

including anticipated operating requirements and staffing considerations during the proposed period of absence” and “Accrued and unused vacation hours will not be paid upon termination unless required by state law.”

The claimant acknowledged receipt of the company policies on September 2, 2016.

RSA 275:49 requires employers to put fringe benefit policies in writing. The employer is free to write policies as they choose.

RSA 275:43 V states that vacation pay, severance pay, personal days, holiday pay, sick pay, and payment of employee expenses, when such benefits are a matter of employment practice or policy, or both, shall be considered wages pursuant to RSA 275:42, III, **when due** [emphasis added].

Vacation time only becomes wages “when due.” “When due” is a reference to contingencies specified in employers’ policies.

The Hearing Officer finds that the employer properly notified the claimant regarding their vacation policy and that the use of vacation time was subject to staffing considerations and other factors.

Therefore, the Hearing Officer finds the claimant failed to meet her burden, proving beyond a preponderance of the evidence she is due the claimed vacation time.

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.

David M. Zygmunt
Hearing Officer

Date of Decision: August 29, 2017

Original: Claimant
cc: Employer

DMZ/nm