

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Total Climate Control Inc

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages and commissions

Employer: Total Climate Control Inc, 197 N Main St #6, Boscawen, NH 03303

Date of Hearing: June 15, 2017

Case No.: 55017

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant originally asserted, through the filling of his wage claim, that he was owed \$2,923.42 in unpaid commissions. At the hearing, he amended the amount to \$3,030.60.

The employer concedes the claimant is due \$1,180.95, as some of the sales he made cancel or needed amendments or corrections.

FINDINGS OF FACT

The claimant worked for the employer from June 2016 through December 2016, when he quit.

The claimant argues he is due \$3,030.60 in unpaid commissions for sales made prior to his resignation. He claims he is due commissions for sales to customers Gorman, Hallowell, Krull, and Richardson. He argues the chargebacks for Tilly and Eagle were not his fault; therefore he should be paid for those commissions. He agrees the sale for Farley was cancelled and no commission is due for this sale. He argues that though the sale for Hallowell was cancelled, it was ultimately installed therefore he should receive a commission.

The employer provided credible testimony that the claimant is only due commissions for the sales to customers Gorman, Tilly, Krull and Richardson, less the chargebacks for previously paid commissions on Hallowell and Farley. The sale for Hallowell was cancelled, with documentation previously submitted to show the refund of deposit to the customer. The customer ultimately did complete another sale, but not the original sale from the claimant. The sales to Eagle and Tilly for which he had previously received commissions had chargebacks because there were issues with the sales.

The claimant's argument that he should receive commissions for Hallowell, Tilly and Richardson are not persuasive, as the employer provided credible testimony that the sale for Hallowell was not installed and the chargebacks for Tilly and Richardson were due to issues with the sales, regardless of whose error caused them.

Therefore, the Hearing Officer finds the claimant proved by a preponderance of the evidence he is due \$1,180.95 in claimed commission as follows:

- Gorman \$208.48
- Tilly \$921.28
- Krull \$728.30
- Richardson \$422.50

Less charge backs of:

- Hallowell \$464.90
- Farley \$334.71
- Eagle \$300.00

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 this Department finds that the claimant proved by a preponderance of the evidence that he is owed a portion of the claimed wages/commissions, it is hereby ruled that the Wage Claim is valid in the amount of \$1,180.95.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$1,180.95, less any applicable taxes, within 20 days of the date of this Order.

Melissa J. Delorey
Hearing Officer

Date of Decision:

Original: Claimant
cc: Employer

MJD/das