

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



v.

American Red Cross

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
Employer: American Red Cross Blood Services - New England Region
Date of Hearing: September 14, 2017
Case No.: 55633

BACKGROUND AND STATEMENT OF THE ISSUES

The current issue concerns unpaid wages from two (2) pay periods

The employer is the New England region's chapter of the parent American Red Cross.

The claimant was employed as a phlebotomist and collections technician.

The employer holds that the claimant was paid correctly.

On the basis of the claimant's assertion she is owed \$500.00 in unpaid wages from the employer, the claimant filed a Wage Claim with this Department on July 27, 2017 with a Notice of Wage Claim sent to the employer this same date, July 27, 2017. With no response from the employer a Notice of Hearing was sent to both parties on August 24, 2017; accordingly a hearing was held on September 14, 2017.

This case was kept open until the end of business Thursday October 11, 2017 in order for the employer to provide additional exhibits requested by the Hearing Officer. The information was timely received and the record formally closed on October 11, 2017.

FINDINGS OF FACT

The claimant worked for the employer from April 3, 2017 through June 28, 2017 earning \$13.88 per hour and paid biweekly on the Friday following the end of the pay period.

The parties agree to the number of hours the claimant worked during the pay periods in dispute: June 17, 2017 through June 30 and July 1, 2017 through July 14, 2017.

The employer's time records show the employee worked thirty-four and nine-tenths (34.9) hours for the period June 17, 2017 through June 23, 2017 and twenty eight and one-half (28.5) hours for the period June 24, 2017 through June 30, 2017 for a biweekly total of sixty three and one half hours (63.5). The claimant's bank records show a direct deposit of \$396.10 for this pay period.

The employer's time records show the claimant worked seven (7) hours for the period July 1, 2017 through July 7, 2017, the total being the same for this pay period. The claimant's bank records show a direct deposit of \$8.95 for this pay period.

The claimant was paid a total net of \$404.95 for the two (2) pay periods ($\$396.10 + \$8.85 = \$404.95$) for a total of seventy-five and one-half hours (75.5) worked.

As a former employee the claimant was unable to get access to the employer's computer system in order to view her statement of deductions to see how the employer arrived at the dollar amounts she was paid. The claimant made a number of unsuccessful telephone requests to the employer for these records.

DISCUSSION AND CONCLUSIONS

The parties agree to the number of hours the claimant worked during the two (2) pay periods in dispute.

The employer was unable to document the employee's deductions at the time of the hearing. Per the Hearing Officer's request the pay stubs documenting the deductions were submitted to the Department. These documents were unaccompanied by a cover letter or other correspondence explaining the documents or the employer's position.

The employer's Payslip for the pay period June 17, 2017 through June 30, 2017 shows the claimant being paid \$396.00, this is consistent with the claimant's bank records. However, this Payslip also shows that the claimant was paid only for twenty-one and one half (21.5) hours worked. This contrasts with the employer's time records showing the claimant working sixty three and one half (63.5) hours for the same pay period.

The employer's Payslip for July 1, 2017 through July 14, 2017 shows the claimant being paid \$8.85, this is consistent with the claimant's bank records. However, this Payslip fails to show the claimant being paid for any hours. The employer's time records show the claimant working seven (7) hours for the same pay period. The payment of \$8.85 showing in the claimant's bank statement is from a leave payout according to the Payslip for the period.

The employer's time and payroll records support the claimant's position that she was underpaid for two pay periods. The employer's time records show the claimant working a total of seventy and one-half (70.5) hours for two pay periods ($63.5 + 7 = 70.5$) and payroll records showing her being paid a total of \$396.10 ($\$396.10 + \$0.00 = \396.00) for the hours worked. This equals payment for twenty one and one half (21.5) hours.

The Hearing Officer finds that the claimant proved by a preponderance of the evidence she is due wages for two pay periods: June 17, 2017 through June 30, 2017 and July 1, 2017

through July 14, 2017. The Hearing Officer finds further the claimant is due the difference of her total hours worked (70.5) and hours paid (21.5) equal to forty nine (49) hours, and when multiplied by her rate of pay (49 x \$13.88) is owed \$680.12.

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 the claimant proved by a preponderance of the evidence that she is due unpaid wages, it is hereby ruled this Wage Claim is valid.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED] in the total amount of \$680.12 less any applicable taxes, within 20 days of the date of this Order.

David M. Zygmunt
Hearing Officer

Date of Decision: November 13, 2017

Original: Claimant
cc: American Red Cross Blood Services – New England Region
425 Reservoir Avenue, Manchester, NH 03104

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