

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

v.

XCube Research and Development, Inc.

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43-b unpaid salary
RSA 275:43 V unpaid vacation

Employer: XCube Research and Development, Inc., 100 Innovative Way,
Suite 3321, Nashua, NH, 03062

Date of Hearing: September 27, 2017

Case No.: 55718

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts through the filing of his wage claim that he is due \$9,666.68 in unpaid salary and \$10,261.68 in unused vacation time for a total of \$19,928.36.

The employer concedes the claimant is due the amounts claimed. He cites fiscal mismanagement by former employees for the company's inability to meet financial obligations.

FINDINGS OF FACT

The claimant worked for the employer from May 2011 until July 3, 2017 when he tendered his resignation. The claimant received a yearly salary of \$116,000.00 apportioned semimonthly.

The claimant holds he is owed wages for two pay periods, pay period ending June 16, 2017 in the amount of \$4,833.34 and pay period ending July 1, 2017 in the amount of \$4,833.34.

The employer concedes the claimant is due these wages.

The Hearing Officer finds the claimant proved by a preponderance of evidence he is owed wages for two pay periods, \$4,833.34 each, combined for \$9,666.68 gross.

The claimant holds he is owed for unused accrued vacation time in the amount of one hundred eighty-four (184) hours. The claimant assigns a value of \$10,261.68 for these hours by converting his yearly salary (\$116,000.00) to an hourly rate (\$55.77) multiplied by one hundred eighty-four (184) accrued hours

The employer concedes the claimant is due this accrued vacation time.

The Hearing Officer finds the claimant proved by a preponderance of the evidence he is due the claimed vacation in the amount of \$10,261.68 gross.

The Hearing Officer finds that the claimant proved by a preponderance of evidence he is owed both the outstanding two pay periods of wages in the amount of \$9,666.68 gross, and \$10,261.68 gross for accrued vacation hours for a total of \$19,928.36.

DECISION AND ORDER

Based on the testimony and evidence presented, and as RSA 275:43 I requires that an employer pay all wages due an employee, and as RSA 275:43-b requires that an employer pay all wages due if the salaried employee works any part of a pay period and as the employer conceded the claimant is due these wages and as this Department finds the claimant proved by a preponderance of the evidence that he is owed the claimed salary, it is hereby ruled that this portion of the Wage Claim is valid in the amount of \$9,666.68.

RSA 275:43 V considers vacation pay to be wages, when due, if a matter of employment practice or policy and as the employer testified to owing the claimant the unpaid vacation time claimed, and as this Department finds that the claimant proved by a preponderance of the evidence that he is owed the claimed vacation pay, it is hereby ruled that this portion of the Wage Claim is valid in the amount of \$10,261.68.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED] in the total of \$19,928.36 (\$9,666.68 plus 10,261.68) for wages and vacation time, less any applicable taxes, within 20 days of this Order.

David M. Zygmunt
Hearing Officer

Date of Decision: October 24, 2017

Original: Claimant
cc: Mikael Taveniku, President, XCube Research and Development, Inc.
100 Innovative Way, Suite 3321, Nashua, NH, 03062

DMZ/nm