

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Jordan Transport LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43 V unpaid employee expenses
RSA 275:48 I withholding of wages

Employer: Jordan Transport LLC, 8 Wentworth Cir, Windham NH 03087

Date of Hearing: September 25, 2017

Case No.: 55729

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts she is owed \$1,958.18 in unpaid medical bills because the employer cancelled her health insurance without prior notice to her.

The employer argues the health insurance carrier notified the claimant via three letters mailed to her address of record that the health insurance carrier and the employer had on file. He argues that he and the claimant had several verbal conversations in March 2017 regarding the fact that the health insurance would be cancelled March 31, 2017. Further, the claimant had a conversation with him via text on April 11, 2017, in which he and the claimant discussed the fact that their health insurance had been cancelled.

FINDINGS OF FACT

The claimant worked for the employer as a truck driver. At different periods during the claimant's employment, they offered health insurance. The employer had health insurance through March 31, 2017, when it cancelled for lack of payment by the health insurance carrier.

The claimant had medical appointments on April 3, 2017 and April 11, 2017. Her health insurance cancelled as of March 31, 2017, and did not cover those appointments.

The health insurance carrier sent notice to the claimant on March 24, 2017, that the insurance would cancel on March 31, 2017. The health insurance carrier provided COBRA information on April 11, 2017, requiring the claimant to elect coverage within 31 days, which would cover her from the time the health insurance coverage cancelled on

March 31, 2017. The employer referenced a third letter sent by the health insurance carrier around the date of cancellation, but neither party presented that letter.

The claimant had moved in with her boyfriend in January 2017, however, she did not change her address of record with either her employer or health insurance carrier. Her son remained at her prior address and collected her mail for her. She claims to not have opened any of her mail until after April 22, 2017, also after her medical appointments on April 3, 2017 and April 15, 2017.

The claimant argues the employer should pay for the medical bills incurred after the cancellation of the health insurance on March 31, 2017, as she was not aware of the cancellation until after her appointments.

The employer argues the claimant was aware of the cancellation in March 2017 through verbal conversations and through written correspondence on March 24, 2017 and April 11, 2017. The claimant chose to continue to attend the medical appointments on April 3, 2017 and April 15, 2017, knowing that she did not have health insurance.

Whether or not the employer and claimant had a conversation in March 2017 regarding the cancellation of the health insurance is immaterial. The health insurance carrier properly notified the claimant on March 24, 2017, of the impending cancellation on March 31, 2017. The health insurance carrier properly mailed the letter their address of record. It is the claimant's responsibility to update the carrier and the employer of her address. She chose not to update her address nor open her mail from her address of record in a timely manner.

The claimant did not persuasively connect the envelope from the health insurance carrier showing a US Postal cancellation of March 31, 2017, to the health insurance carrier pending cancellation letter dated March 24, 2017. The claimant credibly testified she came back to a three month "stack of mail" from her son. There was discussion of a third letter sent on or around March 31, 2017, from the health insurance carrier, which could be the source of the envelope, amid the stack of mail.

The Hearing Officer finds the claimant had enough notice between the date of the March 24, 2017, pending cancellation letter from her health insurance carrier and the date of her April 3, 2017 and April 15, 2017, medical appointments. The claimant also declined her COBRA coverage, which she could still have utilized upon opening her mail on April 22, 2017.

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence she is due the claimed wages.

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.

Melissa J. Delorey
Hearing Officer

Date of Decision: October 12, 2017

Original: Claimant
cc: Employer

MJD/nm