

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF LABOR**  
**CONCORD, NEW HAMPSHIRE**



**v.**

**Professional Sports Catering, LLC**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages

**Employer:** Professional Sports Catering, LLC, 980 North Michigan Avenue  
Suite 400, Chicago, IL 60611

**Date of Hearing:** November 16, 2017

**Case No.:** 55910

**BACKGROUND AND STATEMENT OF THE ISSUES**

The current issue concerns the matter of alleged unpaid tips associated with the sale of prepaid drink vouchers.

The claimant worked for the employer as a bartender from March 2017 through August 2017.

The employer is a national catering company contracted locally by the owners of a New Hampshire sport and entertainment venue to provide food and beverage services.

The claimant alleges the employer failed to pass along monies specifically identified as gratuities on customer's paid invoices.

The employer holds the claimant has been paid in full and is not owed further wages.

On the basis of the claimant's assertion she is owed unpaid wages in the form of tips she filed a Wage Claim with this Department on September 1, 2017; a Notice of Wage Claim was forwarded to the employer on September 6, 2017. The employer filed an objection to the claim on September 15, 2017. The claimant requested a hearing on September 25, 2017 and subsequently Notices of Hearing were sent to the parties on October 25, 2017 and accordingly a hearing was held on November 16, 2017.

## **FINDINGS OF FACT**

The claimant earned \$7.25, including tips, bartending for the employer; she was paid biweekly with her wages directly deposited into her banking account.

In addition to providing contracted catering services for the venue owners, the employer has an arrangement with them whereby the venue owners purchase drink tickets from the employer, then subsequently use them during their events, providing them to their customers who may then redeem the tickets anywhere in the venue for beer, wine, soda or water. Once the employer has transferred the tickets to the venue owners, the employer no longer has an interest in them; any value that may be attached to the tickets is now the property of the venue owners.

In the course of her duties the claimant came to learn that invoices were being paid by customers who included a gratuity amount with their payments. She knew she was not receiving any of these gratuities and concluded they were being diverted.

## **DISCUSSION**

The claimant holds she is entitled to the gratuities discussed above.

The employer explained that the invoices the claimant references *are for services provided by the venue owners to their customers* and these invoices may reference drink tickets / vouchers. The employer provided exhibits and credible testimony that they have no involvement in the referenced transactions.

The claimant did not counter the employer's explanation of the invoices.

The claimant has the burden of proof in these matters to show by a preponderance of the evidence that she is owed additional wages. Proof by a preponderance of evidence as defined in Lab 202.05 means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not.

The Hearing Officer finds that the claimant failed to meet this burden. The claimant, therefore, fails to prove by a preponderance of the evidence that he is owed 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 was not paid all wages due, it is hereby ruled that this Wage Claim is invalid.

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David M. Zygmunt,  
Hearing Officer

Date of Decision: December 15, 2017

Original: Claimant

DMZ/nm