

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

[REDACTED]

V

Pawfectly Raw of NE LLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:44 IV liquidated damages

Employer: Pawfectly Raw of NE, 18 Airport Rd, Nashua, NH 03063

Date of Hearing: November 9, 2017

Case No.: 56094

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant now asserts that the employer should be liable for liquidated damages on wages he has been previously paid (NH DOL 55012), in the amount of \$568.08.

The employer argues that she had his wages available at the time they were due. He chose to return checks to her and not answer text messages requesting how he would like his final wages handled. She did disagree with the amount of the final wages the claimant requested.

FINDINGS OF FACT

The claimant argues the employer did not have his final wages available when due, as ordered through NH DOL 55012. He argues she should be liable for liquidated damages for failing to have his wages available when due.

The employer provided credible and persuasive testimony that she did have the wages available, though she disagrees with the amount claimed by the claimant. She mailed checks to him which were returned to her and sent text messages to which he never responded.

RSA 275:44 IV holds an employer liable to an employee for liquidated damages if the employer, "willfully and without good cause fails to pay" all wages within the timeframe required by statute. The New Hampshire Supreme Court defined "willfully and without good cause" in Ives v. Manchester Subaru, Inc. 126 NH 796 to mean, "voluntarily, with knowledge of the obligation and despite the financial ability to pay the

wages owed". The Court continued, "an employer acts willfully if, having the financial ability to pay wages which he knows he owes, he/she fails to pay them".

The Hearing Officer finds that the claimant failed to prove by a preponderance of the evidence that the employer willfully and without good cause failed to pay him all wages due in the time required because the employer has the wages available to him in the proper time frame.

DECISION

Based on the testimony and evidence presented, as RSA 275:44 IV holds an employer liable to an employee for liquidated damages if the employer willfully and without good cause fails to pay wages due in the timeframe required by statute, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that the employer willfully and without good cause failed to pay wages due in the timeframe required by statute, it is hereby ruled that the wage claim is invalid.

Melissa J. Delorey
Hearing Officer

Date of Decision: November 14, 2017

Original: Claimant
cc: Employer

MJD/nm