

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



**V**

**Healthcare Services Group Inc**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:43 V unpaid vacation pay

**Employer:** Healthcare Services Group Inc, Attn: Adam Duke, 239 Pleasant St, Concord  
NH 03301

**Date of Hearing:** November 28, 2017

**Case No.:** 56121

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts she is owed \$675.00 for ten days of unpaid vacation pay at rate of \$9.00 per hour, due upon her separation from employment.

The employer denies the claimant is due any vacation pay as she did not follow the vacation use policy. Further, she was terminated as a no call no show, and the policy states that employees who are terminated do not receive any vacation pay.

**FINDINGS OF FACT**

The claimant worked for the employer from January 2015 through September 2017, when she was terminated for a no call no show to her job. Her rate of pay was \$9.00 per hour.

The claimant argues she told her manager she had to go to visit her daughter who was ill. She claims he said he would "mark it down."

The employer argues that the claimant did not complete any of the paperwork required to request the payment of vacation pay and/or time off. At the time, the employer told her they were not granting any time off as they were short staffed. Further, when the employer called her after her no call no show, she did not respond to their call. The employer did not have a copy of the vacation policy but credibly testified that the written policy states that vacation pay is not paid to employees who are terminated by the employer.

The claimant did not provide persuasive testimony that she had vacation pay accrued to her benefit at the time of her separation.

The employer provided credible testimony that their written policy states that vacation pay is not paid to employees who are terminated by the employer, which the claimant was.

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence she is due any vacation pay.

### **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 RSA 275:43 V considers vacation pay to be wages, when due, if a matter of employment practice or policy, or both, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that she is due any vacation pay, it is hereby ruled that the Wage Claim is invalid.

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Melissa J. Delorey  
Hearing Officer

Date of Decision: December 7, 2017

Original: Claimant  
cc: Employer

MJD/nm