

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Sylvester Sheet Metal Corp

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Sylvester Sheet Metal Corp, 451 Pepsi Rd, Manchester NH 03109

Date of Hearing: December 19, 2017

Case No.: 56299

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$3,094.00 in unpaid wages for 448 hours at \$7 per hour. He seeks the balance between the rate of pay he received, \$15 per hour, and the rate he should have received, \$22 per hour.

The employer denies the claimant is due any additional wages. He changed from full time to part time status, at which time he was notified the part time hourly rate was \$15 per hour.

FINDINGS OF FACT

The claimant worked for the employer for twenty-seven years ending September 17, 2017, when he retired. In preparation for his retirement, he requested to change from his regular full time schedule for which he was paid a salary, to a part time schedule for which he was paid \$15 per hour.

The claimant agrees that during a meeting on April 12, 2017, the employer told him that he was going to receive an hourly rate of \$15 when his schedule changed to part time on April 18, 2017. The claimant acknowledges that he agreed to work for the rate of \$15 per hour, however, he was unhappy with that rate.

The claimant argues he should have received an hourly rate of \$22 per hour, based on the salary he received working full time, instead of the \$15 per hour he received working part time.

The employer argues they notified the claimant of the hourly rate of \$15 prior to his schedule change and paid him accordingly for all hours worked.

RSA 275:49 I requires that an employer inform employees of the rate of pay at the time of hire. Lab 803.03 (a) requires that an employer inform employees in writing of

the rate of pay at the time of hire and prior to any changes. Lab 803.03 (f) (6) requires an employer maintain on file a signed copy of the notification.

The employer notified the claimant of the rate of pay he would receive on a part time basis prior to performing work at that rate.

The employer met their burden under the statute to notify the claimant of the rate of pay, and the claimant agreed to work for that rate. The claimant's argument that he is unhappy with the rate and felt he should have been paid more, is not persuasive.

The Hearing Officer finds the claimant was paid all wages due, at the correct \$15 per hour, for all hours worked.

Therefore, the Hearing Officer finds the claimant failed to prove he 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 he is owed the claimed wages, it is hereby ruled that the Wage Claim is invalid.

Melissa J. Delorey
Hearing Officer

Date of Decision: January 2, 2018

Original: Claimant
cc: Employer

MJD/nm