

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Dynamic Interiors Inc

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:48 I withholding of wages
RSA 279:21 VIII unpaid overtime pay

Employer: Dynamic Interiors Inc, 16 Holstein Dr, Pelham NH 03076

Date of Hearing: June 13, 2018

Case No.: 56835

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant originally asserted, through the filing of his wage claim that he was owed \$2,030 for 81 hours of unpaid wages and 15 hours of unpaid overtime worked between February 4 and February 16, 2018. At the hearing, he amended the claim to \$1,610 for 58 hour of unpaid wages and 15 hours of unpaid overtime. He also agreed the employer could withhold \$150 for the biweekly car payment from these wages.

The employer acknowledges the claimant worked 56 hours at straight time and 4 hours of overtime. He has not paid the claimant because the claimant owes money for a car he bought from the employer and an advance given to him from the co-owner.

FINDINGS OF FACT

The claimant worked for the employer from approximately February 2017 through February 16, 2018. It cannot be determined if the claimant resigned or was terminated by the employer. The claimant earned a rate of \$20 per hour for straight time and \$30 per hour for overtime pay.

The claimant had purchased a car from the employer for which he agreed the employer could deduct \$150 per biweekly pay check. The claimant also borrowed money from another officer of the employer for personal reasons. Neither of these arrangements was reduced to writing.

RSA 275:48 Withholding of Wages I (b) Allows an employer to make certain deductions from an employee's wages if they have first secured a written authorization by the employee for deductions, which for a lawful purpose accruing to the benefit of the employee as provided in regulations issued by the commissioner.

Because the employer did not reduce either of these arrangements to writing according to RSA 275:48 I, they are precluded from making deductions for the full amounts outstanding at the claimant's separation.

The Hearing Office finds it more likely than not that the employer time keeping is more accurate than the claimants. Therefore, the Hearing Officer finds the claimant worked 56 hours at straight time and 4 hours of overtime, for a total of \$1,240 ((56 hrs * \$20) + (4 hrs * \$30)). The claimant agreed the employer could deduct \$150 for the agreed upon car payment, leaving a total due of \$1,090 (\$1,240 - \$150).

DECISION AND ORDER

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 proved by a preponderance of the evidence that he is owed a portion of the claimed wages, it is hereby ruled that the Wage Claim is valid in the amount of \$1,090.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$1,090 ((56 hrs * \$20) + (4 hrs * \$30) - \$150), less any applicable taxes, within 20 days of the date of this Order.

[REDACTED]
Hearing Officer

Date of Decision: June 13, 2018

Original: Claimant
cc: Employer