

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Eastman Hill Inc dba Steele Hill Resorts

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages/commissions

Employer: Eastman Hill Inc dba Steele Hill Resorts, 516 Steele Hill Rd, Sanbornton NH 03269

Date of Hearing: May 17, 2018

Case No.: 56909

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$486.60 in unpaid wages/commissions that the employer is illegally withholding from his wages.

The employer denies they are withholding anything improper. They are following their written process, and will release money as is appropriate under that policy.

FINDINGS OF FACT

The claimant signed a Sales Representative Compensation Agreement with the employer on September 28, 2013. He left the employer on August 20, 2017, due to a personal issue. He returned briefly in January 2018. No sales were made by the claimant after August 20, 2017.

The claimant argues the employer is illegally withholding his past earned commissions in the amount of \$486.60. He argues at least one of the sales meets the criteria to release the hold. He argues the other sale is not his, as it was after August 20, 2017.

The employer argues they withhold 10% of all sales, up to a cap of \$1,000, in an account for any chargeback experienced by sales representatives due to uncompleted sales, pursuant to the Sales Representative Compensation Agreement. This account helps protect the representatives currently earned wages/commissions in the event of a chargeback.

The claimant had one sale fall through, for Pansa and Guillet, for which \$380 has been deducted from the claimant's holdback account. This leaves a balance of \$106.60 in the holdback account. The employer has credibly testified that if the remaining sales

meet the criteria in the Sales Representative Compensation Agreement, the funds in the holdback account would be paid out.

The claimant's argument that the Pansa and Guillet sale is not his because it posted after his departure date is not persuasive. He could not articulate specific names or dates for his sales.

The claimant's argument that the sale for Bush met the criteria is incorrect. The claimant, in error, used the "due date" column rather than the "transaction date" column to show the purchasers payments. According to the "transaction date" column, the purchaser had not made the required four consecutive monthly on time payments.

The employer properly notified the claimant of the commission policy in writing, as required by RSA 275:49. He was specifically noticed of the 10% holdback and the requirements which needed to be met in order for the commissions to be released.

Because the employer properly noticed the claimant as to the policy and practice of the commission policy, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence he is due the claimed commissions under the written policy of the employer.

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.

██████████
Hearing Officer

Date of Decision: May 24, 2018

Original: Claimant
cc: Employer

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