

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Bedford Nursing & Rehab Center LLC

DECISION OF THE HEARING OFFICER

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

Employer: Bedford Nursing & Rehab Center LLC, 480 Donald St, Bedford NH 03110

Date of Hearing: May 10, 2018

Case No.: 56936

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$2,000 in unpaid PTO wages due upon his separation from employment.

The employer denies the claimant is due any PTO as the written policy states that PTO time is forfeited upon separation.

FINDINGS OF FACT

The claimant had an unrelated incident with the employer regarding time off for a distant relative's funeral. This issue was important to the parties, but has no bearing on the issue of the payment of PTO time upon separation from employment.

The claimant had previously been a supervisor in the facility and had requested to change to a per diem status. He then returned as an employee, but not in a supervisor capacity.

The claimant argues he had 82.927 hours of PTO time accrued upon his separation from employment, which he seeks as due.

The employer argues their written policy, of which he was aware, states that PTO time is forfeited upon separation from employment. They presented documentation to show the claimant acknowledged receipt of the employee handbook on March 10, 2010, and a subsequent update to the vacation policy on July 26, 2012, which specifically notices the claimant that vacation time will not be paid out upon separation whether voluntary or involuntary separation.

RSA 275:49 III requires the employer to make available to employees, in writing or through a posted notice, employment practices and policies with regard to vacation pay. Lab 803.03 (c) requires the employer to inform employees in writing of any change in vacation pay practices or policies prior to the effective date of the change.

The employer properly notified the claimant in writing of the policy and practice of the offered PTO pay. Because the employer adequately notified the claimant in writing of the PTO pay practice or policy, the Hearing Officer finds that the claimant failed to prove he is due any PTO 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 RSA 275:43 V considers PTO/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 he is due any PTO/vacation pay, it is hereby ruled that the Wage Claim is invalid.

██████████
Hearing Officer

Date of Decision: May 15, 2018

Original: Claimant
cc: Employer

██████/██