

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Crown Point Cabinetry Inc

DECISION OF THE HEARING OFFICER

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

Employer: Crown Point Cabinetry Inc, PO Box 1560, Claremont NH 03743

Date of Hearing: June 19, 2018

Case No.: 57095

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts she is owed \$1,153.84 in unpaid wages and commissions.

At the hearing, she clarified these wages were only for salary for her final week of work and no commissions.

The employer argues they made deductions from her salary because her chargebacks from commissions were so great that she continues to have a negative balance. She also has additional sales that may fund. When and if they do, if she has a positive balance they will pay her any commissions due.

FINDINGS OF FACT

The claimant worked for the employer for four years until her termination on April 2, 2018. She was a salaried employee earning \$1,153.84 per week and additional commissions on sales.

The claimant left employment with a large negative commission balance due to a large chargeback on an order.

The employer did not pay the claimant her final salary, but used that money towards her outstanding commission chargeback account.

The claimant seeks the salary as due.

RSA 275:43-b requires that an employer pay a salaried employee their full salary for any pay period in which the employee performs any work. It also allows employers to make deductions to a salaried employee's wages under certain circumstances, but none of those exceptions apply to the facts of this case.

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, but none of those exceptions apply to the facts of this case.

The employer agreed the claimant was paid a salary, and not on a draw against commission basis.

Because the employer is precluded from making these deductions from the claimant's salary wages, the Hearing Officer finds the claimant proved by a preponderance of the evidence she is due the claimed salary in the amount of \$1,153.84.

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 RSA 275:43-b requires that a salaried employee received their salary, in full, for any pay period in which they perform any work, and as this Department finds that the claimant proved by a preponderance of the evidence that she was not paid all wages/salary due, it is hereby ruled that this portion of the Wage Claim is valid in the amount of \$1,153.84.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$1,153.84, less any applicable taxes, within 20 days of the date of this Order.

[REDACTED]
Hearing Officer

Date of Decision: June 20, 2018

Original: Claimant
cc: Employer

[REDACTED]