

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF LABOR**  
**CONCORD, NEW HAMPSHIRE**



V

**Lake Life Lessons, LLC**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:44 IV liquidated damages

**Date of Hearing:** January 10, 2019

**Case No.:** 57707

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts he is owed \$12,000 in unpaid wages for hours worked between May 10, 2018 and June 30, 2018. He further seeks liquidated damages.

The employer argues the claimant is barred by res judicata, because he both litigated this claim before and if not, because he should have and could have litigated it with his prior claim with this Department.

**FINDINGS OF FACT**

The claimant previously filed a Wage Claim against the employer, NHDOL case number 56933 on March 20, 2018, and did not include the items in this current claim in the previous claim. This claim was not meritorious at the New Hampshire Department of Labor and was denied on Appeal to Carroll County Superior Court.

The employer argues that the current Wage Claim is barred under the doctrine of res judicata. Citing, Appeal of Univ.Sys Bd. 17 NH 626, 629 (2002), Gray v Kelly, 161 NH 160, 164 (2010), and Morin v JH Valliere Co, 113 NH 431 (1973), they argue that a Department of Labor judgment on the merits is conclusive upon the parties "both as to what was actually litigated and as to everything that might have been litigated", and that the current Wage Claim involves the same "cause of action", arising out of the same factual transaction, thereby extinguishing the claimant's rights to remedies.

The employer makes a persuasive argument, especially because the claimant agreed he was aware of the wages he makes the claim for today when he made the original claim. The claimant could have, and should have, raised the issue in the current Wage Claim when he filed his initial Wage Claim. The current Wage Claim deals with the same "cause of action". The current Wage Claim is, therefore, barred by the doctrine of res judicata.

Even if this claim were not barred, the claimant failed to prove by a preponderance of the evidence that he is owed any further wages, as his testimony as to the agreement of any wages for the time period sought was not credible or persuasive.

### **CONCLUSIONS**

The Hearing Officer finds that this claim is barred by the doctrine of res judicata.

Further, the Hearing Officer would have found the claimant failed to prove by a preponderance of the evidence he is due the claimed wages.

### **DECISION**

Based on the testimony and evidence presented, as this Department finds that this claim is barred by the doctrine of res judicata, and as the claimant failed to prove by a preponderance of the evidence that he is owed any wages, it is hereby ruled that the Wage Claim is invalid.

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Hearing Officer

Date of Decision: January 28, 2019

Original: Claimant  
cc: Employer