

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

█
v.

CLK Electric

Case No. 101175

DECISION OF THE HEARING OFFICER

Appearances: █ claimant, telephonically
Employer - failed to appear

Nature of Dispute: RSA 275:43 I - Weekly, Unpaid Wages

Date of Hearing: May 10, 2022

BACKGROUND AND STATEMENT OF THE ISSUES

The current issue concerns the employer's alleged failure to pay the claimant all the wages he alleges are due. Specifically, the claimant assert that he is owed \$1,740.00.

The claimant filed a Wage Claim with the Department on February 22, 2022. A Notice of Wage Claim was forwarded to the employer February 24, 2022. The employer failed to file an objection to the claim. The claimant requested a hearing on the contested wages on April 1, 2022. Accordingly, the hearing notice was dated April 4, 2022 and a hearing was scheduled for May 10, 2022.

Despite having proper notice, the employer did not appear for the scheduled hearing. A review of the file indicated that the notice of hearing was mailed to the employer at the address provided in the original claim and was not returned to the Department as undeliverable. It was therefore determined that the employer received adequate notice of the hearing. After waiting 15 minutes for a delayed arrival or other communication from the employer, the hearing proceeded in his absence, consistent with administrative rule Lab 203.04.

FINDINGS OF FACT

The claimant was employed by the employer as an electrician for two- and half years. The claimant testified that his rate of pay was \$22.00 per hour. The claimant testified that he and the employer mutually agreed to part ways. The claimant testified that the employer is his brother. The claimant testified that he is owed 75.64 hours pay.

The claimant testified that he completed a W-4 form. The claimant testified that his W-2 form from the employer for 2020 was inaccurate and caused him tax issues. The claimant testified that he has not received his W-2 for 2021 and has been unable to file his taxes. The claimant testified that he was paid in cash for the last year.

The employer did not appear for the hearing.

DISCUSSION AND CONCLUSIONS

The claimant has the burden of proof in these matters to show by a preponderance of the evidence that he is owed wages. Proof by a preponderance of evidence as defined in Lab 202.05 means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not.

Regarding the claimant's allegation that the employer has not paid him his full wages, the claimant credibly testified that he was not paid his wages in compliance with New Hampshire law when terminated. RSA 275:43 I requires that an employer pay all wages due an employee within 8 days of the expiration of the work week. The employer did not do so.

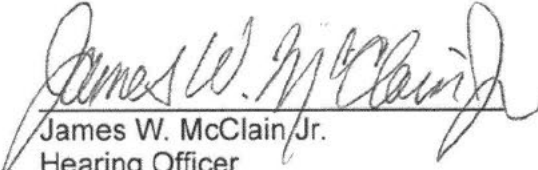
After reviewing the evidence and testimony, the claimant's wage claim with regards to nonpayment of wages is found to be persuasive. However, the claimant's arithmetic is incorrect. 75.64 hours multiplied by \$22.00 is \$1,664.08.

DECISION

Based on the testimony and evidence presented, this Department finds the claimant met his burden to prove by a preponderance of evidence that he is owed additional wages. It is hereby ruled that this Wage Claim is **valid**.

The employer is ordered to send a check to this Department payable to [REDACTED] in the amount of \$1,664.08, less any applicable taxes, within 30 days of the date of this order.

Date of Decision: May 31, 2022


James W. McClain Jr.
Hearing Officer

Original: Claimant
cc: Employer

JWM/nd