

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



v.

Nouria Energy Corp.

Case No. 101238

DECISION OF THE HEARING OFFICER

APPEARANCES: Claimant did not appear
Kerri Adams, representing the employer

NATURE OF DISPUTE: RSA 275:48 I — Withholding of Wages, Illegal Deductions

DATE OF HEARING: May 5, 2022

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant filed a wage claim on March 1, 2022, alleging that he was owed \$300.00 for Massachusetts income tax deductions taken while he was employed in New Hampshire and a New Hampshire resident.

Notice of the claim was sent to the employer on March 1, 2022. The employer did not respond. The claimant requested a hearing March 28, 2022. The hearing notice issued April 4, 2022. The employer responded April 27, 2022, providing documentation that the claimant had been reimbursed for the inadvertent tax deductions. That documentation was provided to the claimant.

The employer requested that they be allowed to appear telephonically for the May 5, 2022 hearing. The Department granted the request. The claimant did not respond to the Department's request for confirmation of his appearance at the hearing.

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

The employer's representative was advised that it was the claimant's burden to prove the allegations in his claim. The representative was further advised that employer was not required to present rebuttal evidence unless and until the claimant presented testimony or evidence in support of his claim. The representative elected not to testify.

FINDINGS OF FACT

The following findings are based on matters of record in the Department file.

The claimant asked for \$300.00 for improper tax deductions. No documentation of how that number was reached was provided. The employer's response, received at the Department on April 27, 2022 and provided to the claimant, provided evidence that the claimant was reimbursed for the inadvertent tax deductions as soon as the employer was made aware of them.

DISCUSSION AND CONCLUSIONS

The claimant had the burden of proving by a preponderance of the evidence that he was owed unpaid wages for the tax deductions. Proof by a preponderance as defined in Lab 202.05 is a demonstration by admissible evidence that a fact or legal conclusion is more probable than not. The hearing officer is charged with evaluating the testimony and exhibits in the case and deciding the issues presented, based upon "reliable, probative, and substantial evidence," Department Rule Lab 204.07(n).

RSA 275:48 I provides, in pertinent part,

1. Every employer shall pay all wages due to employees within 8 days after the expiration of the work week if the employee is paid on a weekly basis, or within 15 days after the expiration of the work week if the employee is paid on a biweekly basis...

Because the claimant failed to appear at the hearing and offer proof to support his allegations, it is not necessary to consider whether those allegations, if credited, would have been sufficient to support the wage claim under RSA 275:48 I.


The employer's un rebutted testimony that the tax deductions were inadvertent and that the employer reimbursed the claimant in a timely fashion is persuasive. In light of this testimony, the claimant failed to meet his burden of proving that he was not paid in accordance with RSA 275:48 I.

DECISION

The claimant failed to appear at the hearing and offered no evidence to support his allegations. The employer presented credible evidence that the employer paid the claimant his wages.

The wage claim is found to be **invalid**.

May 23, 2022
Date of Decision


James W. McClain, Jr.
Hearing Officer

JWM/nd