

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

█
v.

Connecticut Valley Computer Services, Inc.

Case No.102536

DECISION OF THE HEARING OFFICER

APPEARANCES: █ claimant, videoconference
Employer failed to appear

NATURE OF DISPUTE: RSA 275:43 I - Weekly, Unpaid Bonus
RSA 275:43 V- Weekly, Unpaid Employee Expenses

DATE OF HEARING: August 29, 2022

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant filed a wage claim on June 4, 2022, alleging he is owed \$2,606.43 in unpaid wages and \$6,650.33 in unpaid mileage at \$.38 per mile and tolls, parking and meals expenses. Notice of claim was sent to the employer on June 7, 2022. The employer failed to respond and the clamant requested a hearing July 5, 2022. The hearing notice issued August 11, 2022.

At the appointed hour for the hearing, the employer did not appear. It was found that the employer was properly noticed. 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 following findings are based on testimony and matters of record in the Department file.

The clamant was a field service technician who worked for the employer from November 19, 2020 to September 2, 2021. The claimant resides in Portland, Maine. According to the claimant's signed November 18, 2020 job offer which was submitted into evidence, the claimant was paid \$18.00 per hour and \$.38 per mile. The claimant's territory was within a 15 mile radius of his home address. The agreement does not mention tolls, parking and meals reimbursement.

The claimant testified that the employer informed him in February 2021 that he was having difficulty in meeting payroll. The claimant testified that the employer stopped paying complete wages in late May or early June 2021. The claimant testified that he received partial payments in some weeks. The claimant testified he was paid once in June, was paid "some" in July and received his last payment from the employer in October 2021. The claimant testified the employer had a New Hampshire Department of Labor wage inspection in June 2021. He did not know the outcome of the DOL inspection. The claimant testified he found another job and left on September 2, 2021.

The claimant submitted a binder which he claimed was a complete and accurate record of hours worked, mileage driven and expenses. The binder contained no documentation of toll, parking or meal expenses. The binder contained no documentation of the hours the claimant had not been paid. No pay stubs were submitted. The binder contained no documentation of the mileage the claimant had not been paid. The claimant was unable to tell the hearing officer which hours or mileage he had not been paid. The claimant testified twice that he has memory issues.

DISCUSSION AND CONCLUSIONS

The claimant had the burden of proof to show by a preponderance of the evidence that he was owed wages and expenses. 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. With respect to the unpaid wages, the claimant had to prove the wages have not been paid. With respect to the unpaid expenses claim, the claimant had to prove that the employer had a practice or policy of paying out tolls, parking and meal expenses and that the claimant had incurred such work related expenses.

In this case the claimant failed to present any credible evidence he has not been paid. The binder submitted, while detailed, does not contain any documentation of unpaid wages or toll, parking or meals expenses. The claimant was unable to specify which wages he had not been paid.

The claimant failed to submit any documentation that he requested reimbursement for expenses from the employer. The employment offer does not mention tolls, parking or meal reimbursement. The claimant was unable to quantify his expenses. These facts do not allow the hearing officer to infer that these expenses were reimbursable under the job offer submitted.


The claimant testified twice that he has memory issues. Given the claimant's admission that he has difficulty with his memory, additional evidence besides his testimony is needed to support his claim for owed wages.

DECISION

For the reasons stated, it is found that the claimant failed to meet his burden of proof as to claims for unpaid wages and expenses.

The wage claim is ruled **invalid**.

September 21, 2022
Date of Decision


James W. McClain Jr.
Hearing Officer

JWM/nd