

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF LABOR  
CONCORD, NEW HAMPSHIRE

██████████  
v.

Tractor Supply

Case No. 102978

DECISION OF THE HEARING OFFICER

**APPEARANCES:** Claimant did not appear  
Attorney Melanie Cormier, representing the employer

**NATURE OF DISPUTE:** RSA 275:43 I - Weekly, Unpaid Wages  
RSA 275:43 V – Weekly, Unpaid Vacation Pay

**DATE OF HEARING:** August 24, 2022

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant filed a wage claim on July 11, 2022, alleging that he was owed \$1,200.00 in unpaid wages and \$554.00 in unused vacation time. The wage claim notice issued July 12, 2022. The employer failed to respond. The claimant requested a hearing July 28, 2022 and the hearing notice issued August 8, 2022.

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. She 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 employer's representative elected to testify and was sworn. Subsequently, the employer's representative indicated she was the employer's counsel. Counsel submitted a sworn affidavit from the employer's payroll manager showing the claimant's wages and vacation leave balances.

**FINDINGS OF FACT**

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

The claimant asked for \$1,200.00 in unpaid wages and \$554.00 in unused vacation time. No documentation of how those numbers were reached was provided. The claimant worked for the employer for six months and resigned on June 2, 2022. The claimant failed to appear for the hearing.

The employer's submittal indicated that the claimant had no accrued vacation time. The employer's submittal indicated that the claimant had been paid all wages due.

### DISCUSSION AND CONCLUSIONS

The claimant had the burden of proving by a preponderance of the evidence that he was owed unpaid wages. 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 275:43 I provides, in pertinent part,

I. 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...

The claimant failed to appear at the hearing and offer proof to support his allegations of unpaid wages. Therefore, there is no additional evidence to review to support his claim. It is found that the wage claim alone is insufficient to meet his burden of proof.

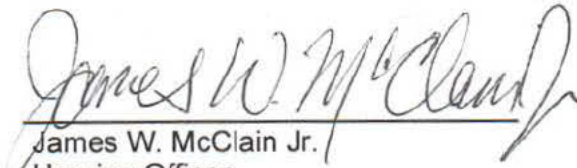
The employer's un rebutted testimony that the employer paid wages to the claimant is persuasive. In light of this testimony, the claimant failed to meet his burden of proving that he was not paid in accordance with RSA 275:43 I.

### 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**.

September 21, 2022  
Date of Decision

  
James W. McClain Jr.  
Hearing Officer

JWM/nd