

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

High Energy Ozone LLC
Case No.: 58359

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:48I/II illegal deductions and failed obligation

Date of Hearing: March 12, 2019

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed \$839.84 which the employer deducted from his wages for health insurance, but did not remit to the insurer, after the policy had been cancelled on March 1, 2018.

The employer denies the claimant is due any wages.

FINDINGS OF FACT

The claimant worked for the employer from August 28, 2017, through June 20, 2018, when he separated from employment.

The claimant participated in the employer's group health insurance policy. His share of the premium for this policy, \$104.98, was deducted from his weekly wages.

The parties agree these deductions were made from the claimant's weekly wages for pay periods ending March 10, 2018, through April 28, 2018.

The claimant received a letter from the health insurance carrier stating the benefit would be cancelled effective May 1, 2018.

DISCUSSIONS AND CONCLUSIONS

The claimant argues that the employer's group health insurance policy cancelled effective March 1, 2018, and the employer continued to deduct \$104.98 from his wages until April 28, 2018. He further argues that he had medical bills denied beginning after March 1, 2018, and through May 1, 2018. He seeks reimbursement for the deducted premiums of \$839.84 for eight weeks between March 1, 2018, and April 28, 2018.

The claimant agrees he received a letter from the health insurance carrier stating the health insurance policy would be cancelled effective May 1, 2018. He testified he called the health insurance carrier whom he states verbally told him the policy was cancelled effective March 1, 2018, after he began receiving denials from providers. He further states that the carrier refused to give him any documentation of the March 1, 2018, cancellation, rather directing him to speak with his employer.

The employer argues that the insurance cancelled effective May 1, 2018, pursuant to an email he had dated December 18, 2018, at 11:34am. Kiersten McNamara of JPG Benefits, their provider, sent this email to the employer. As the email also referenced other individuals, the employer did not submit this email into evidence.

The claimant's argument that health insurance cancelled March 1, 2018, is not found persuasive as he provided no documentation of any denied bills from providers beginning on or after that date. He has only his assertion of a phone call to the health insurance carrier, on an unspecified date, with no contemporaneous notes of the phone call, that the health insurance cancelled effective March 1, 2018, in contravention of the letter he acknowledged stating the insurance would be cancelled May 1, 2018.

Because the claimant did not provide any proof that the health insurance cancelled prior to May 1, 2018, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence that the employer illegally deducted premiums for health insurance.

DECISION

Based on the testimony and evidence presented, as RSA 275:43 I requires that an employer pay all wages due an employee, RSA 275:48 I/II requires an employer to remit payroll deductions to the appropriate insurer, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that the employer made illegal deductions from his wages or failed to remit to the insurer, it is hereby ruled that this the Wage Claim is invalid.

████████████████████
Hearing Officer

Date of Decision: March 26, 2019