

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF LABOR**  
**CONCORD, NEW HAMPSHIRE**



**V**

**United Healthcare**  
**Case No.: 58567**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:43 V unpaid vacation/PTO pay

**Date of Hearing:** April 18, 2019

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant originally asserted, through the filing of his Wage Claim, that he was owed \$944.12 in unpaid vacation pay due upon his separation from the employer.

At the hearing, the claimant corrected the amount claimed to \$835.82 for 46.46 hours of unused vacation/PTO at \$17.99 per hour.

The employer did not respond to the Notice of Wage Claim nor did a representative attend the scheduled hearing.

**FINDINGS OF FACT**

The claimant worked for the employer from August 7, 2017, through January 30, 2019, when he resigned.

The claimant's January 25, 2019, pay stub shows a PTO balance of 46.46 hours.

His final pay stub of February 8, 2019, shows a PTO balance of zero hours.

The claimant alleges he is unaware of any written policy of the employer regarding PTO.

**DISCUSSION AND CONCLUSIONS**

The claimant argues he is due the 46.46 hours of PTO which appear on his January 25, 2019, pay stub. He bears the burden to prove that he had 46.46 hours of PTO accrued to his benefit and that it was payable to him upon his separation from employment.

The claimant's argument that the PTO time shows on his January 25, 2019, paystub and is therefore due and owing, is not persuasive. His subsequent paystub of February 8, 2019, shows 0.00 hours of PTO.

The January 25, 2019, paystub shows a balance of 46.46 PTO hours, but it does not state if that time is accrued to his benefit at that time or not.

There is no explanation for the change in PTO balance from the January 25 and February 8, 2019, PTO balances.

The Hearing Officer finds that the claimant did not provide persuasive testimony or evidence to prove by a preponderance of the evidence that he had a balance of PTO hours accrued to his benefit or that any PTO balance was payable to him upon his separation from employment.

### **DECISION**

Based on the testimony and evidence presented, as RSA 275:43 I requires that an employer pay all wages due an employee, and as RSA 275:43 V considers vacation/PTO pay to be wages, when due, if a matter of employment practice or policy, or both, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that he is due any vacation/PTO pay, it is hereby ruled that the Wage Claim is invalid.

---

  
Hearing Officer

Date of Decision: May 3, 2019

Original: Claimant  
cc: Employer