

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Carezone Financial Services LLC
Case No.: 58609

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages
RSA 275:43-b unpaid salary

Date of Hearing: April 30, 2019

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserts he is owed the balance of \$6,136.36 in unpaid salary as the employer prorated his final pay period's salary.

The employer denies the claimant performed any work in the pay period.

FINDINGS OF FACT

The claimant was employed with the employer as the Director of Carrier Relations from October 19, 2015, through January 2, 2019. He earned a semi-monthly salary of \$7,500.

The employer notified the claimant of a layoff of December 10, 2018. He continued to perform work wrapping up his current tasks.

His last work performed for the benefit of the employer was via a telephone call, documentation submitted, of December 21, 2018.

The employer paid the claimant through January 2, 2019. He performed no work during the pay period of January 1 through January 15, 2019. He received a prorated salary of \$1,363.64 for that pay period.

DISCUSSION AND CONCLUSIONS

The claimant argues he is due the balance of his semi-monthly salary of \$6,136.36 in unpaid salary as the employer prorated his final pay period's salary.

He agrees he did not perform any work during the pay period January 1 through January 15, 2019. His argument that he was available to work if needed and that should be considered work performed, is not persuasive.

RSA 275:43-b Payment of Salaried Employees. –

I. A salaried employee shall receive full salary for any pay period in which such employee performs any work without regard to the number of days or hours worked; provided, however, a salaried employee may not be paid a full salary in each of the following instances:

(a) Any pay period in which such employee performs no work.

Because the claimant did not perform any work, pursuant to RSA 275:43-b I (a), he is not entitled to any salary. Therefore, no additional salary, over and above the wages the employer paid without any statutory requirement, can be found due and owing to the claimant.

Therefore, the Hearing Officer finds the claimant failed to prove by a preponderance of the evidence he is due the claimed salary.

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-b requires that a salaried employee receive their salary, in full, for any pay period in which they perform any work, and as this Department finds that the claimant failed to prove by a preponderance of the evidence that he was due any salary, it is hereby ruled that the Wage Claim is invalid.

████████████████████
Hearing Officer

Date of Decision: May 7, 2019

Original: Claimant
cc: Employer