

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

v.

TARGET CORPORATION
CASE #61996

DECISION OF THE HEARING OFFICER

APPEARANCES (TELEPHONIC): The claimant, _____ appeared pro se.
Michael Brewer, appeared on behalf of the employer, Target Corporation.

NATURE OF DISPUTE: RSA 275:43 I-Weekly, unpaid wages.
RSA 275:43 V-Weekly, unpaid sick pay.

DATE OF HEARING: April 20, 2021

BACKGROUND AND STATEMENT OF THE ISSUES

The New Hampshire Department of Labor file reflects that a wage claim in the amount of \$1,520.00 was filed by the claimant on January 15, 2021. A notice of wage claim was mailed to the employer on January 19, 2021. On February 2, 2021, the employer responded to the wage claim. A hearing was scheduled in this matter and a hearing notice was mailed to the parties on March 23, 2021.

A formal hearing was held on April 20, 2021. Live testimony was provided by the claimant. At the start of the hearing, the wage claim amount was amended to \$1,280.00 by the claimant. This was not objected to by the employer.

FINDINGS OF FACT

The claimant started working for the employer in October/November 2020, as a Backroom Team Member. He worked the overnight shift. The claimant testified that on December 1, 2020, he was called by the employer and informed that while working, he had been in close contact with someone who had COVID-19. The claimant was told to quarantine for ten days. He then took a COVID test, as required, which came back negative, and he returned to work on December 11th.

The claimant testified that while in quarantine, he was in contact with Jen, his HR manager, as to whether or not his request for COVID time would be accepted or denied. He represented that his request for COVID time was accepted. The claimant testified that he was told by short term disability that his request was being processed, but he never received it. The claimant stated that he is seeking COVID sick pay for ten days (December 1, 2020 to December

10, 2020), or eighty hours, at a rate of \$16.00 an hour. The claimant's employment with the employer ended on December 28, 2020.

During the hearing, the claimant referenced documents that were not admitted into evidence. The employer objected and represented that they had not received any documents by the claimant prior to hearing. The claimant represented that he had disclosed documents to the employer prior to hearing, however was not able to provide documentation to support this. This Hearing Officer ruled that as the documents were not disclosed to the employer timely, they were not admitted into evidence and could not be reference during hearing and were not reviewed.

DISCUSSION AND CONCLUSIONS

The claimant has the burden of proof in this matter to show by a preponderance of the evidence that he is owed the wages claimed. Proof by a preponderance of the evidence is defined in Lab 202.05 as a demonstration by admissible evidence that a fact or legal conclusion is more probably than not.

The employer argued that the claimant was paid appropriately and that New Hampshire law does not require that sick time be provided to any employee. The employer highlighted that the claimant was a seasonal employee and argued that he is not owed sick time.

The claimant argued that he is not requesting sick time, but COVID sick pay. The claimant pointed out that he had a lot of issues with his last payment from the employer. The claimant argued that he was exposed to COVID because of the employer and he was told that he would be paid.

The employer's argument is found to be persuasive. As noted previously, evidence submitted by the claimant was not admitted as it had not been timely submitted to the opposing side. The only evidence before this Hearing Officer supporting the claimant's position is his testimony. Without some corroboration, this is not sufficient for the claimant to meet his burden of proof in this case. Without more evidence or testimony showing the employer's policy and/or agreement in regards to COVID sick pay, it is determined that the claimant has not sustained his burden. As such, it is found that the claimant has not met his burden of proof to show that he is owed the claimed wages.

DECISION

Based on the evidence and testimony presented, it is determined that the claimant failed to prove by a preponderance of the evidence that he is due the claimed wages. It is hereby ruled that the Wage Claim is invalid.

May 13, 2021
Date of Decision

Daisy Mongeau
Daisy Mongeau, Hearing Officer

DAM/cb