

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

v.
ACARA SOLUTIONS
CASE #62355

DECISION OF THE HEARING OFFICER

APPEARANCES (VIA WEBEX): The claimant, _____, appeared pro se.
Attorney Earl Cantwell appeared on behalf of the employer,
Acara Solutions.

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

DATE OF HEARING: May 26, 2021

BACKGROUND AND STATEMENT OF THE ISSUES

The New Hampshire Department of Labor file reflects that a wage claim in the amount of \$456.00 was filed by the claimant on March 24, 2021. A notice of wage claim was mailed to the employer on March 25, 2021. On May 6, 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 April 27, 2021.

A formal hearing was held on May 26, 2021. At the start of the hearing, the wage claim amount was amended to \$145.30. Live testimony was provided by the claimant.

FINDINGS OF FACT

The claimant started working for the employer in March/April 2021, as a Customer Service Representative for E-Z Pass. She testified that she made \$14.50 an hour and that she worked for the employer for about one week. She believes her end date with the employer was March 16th. The claimant testified that she worked 8:00 a.m. to 4:30 p.m. every day the week she worked (specifically, March 8th, March 9th, March 10th, and March 11th), except for Friday, when she had a medical appointment. The claimant acknowledged that she received payment in the amount of \$310.70 from the employer. She is seeking payment for the remainder. The claimant explained that this was a work from home position and she had internet issues and as she could not login, her trainer logged her hours. The claimant testified that she did not miss portions of multiple days, up to four hours, due to internet issues, as she used her own

computer, which was already connected to the internet. The claimant testified that she did not track her own hours, she relied on her trainer to do it.

The employer submitted two documents into evidence. The claimant's timesheet, which reflects that on Monday, March 8, 2021, she worked four hours, on Tuesday, March 9, 2021, she worked eight hours, on Wednesday, March 10, 2021, she worked four hours, on March 11, 2021, she worked four hours, and on Friday, March 12, 2021, she worked four hours, for a grand total of 24 hours. At hearing, the claimant disagreed with the hours reported.

The employer also submitted a paystub with the check date of March 26, 2021. It notes a payment for 24 hours, at a rate of \$14.50, for a total \$348.00. After taxes, the claimant was paid \$310.70.

DISCUSSION AND CONCLUSIONS

The claimant has the burden of proof in this matter to show by a preponderance of the evidence that she 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 solely worked for one week with the employer and did not work full days some days due to internet and medical issues. The employer highlighted that after the claimant called off on March 15th, she was terminated. The employer argued that they have paid all wages due.

The claimant argued that she worked full days on Monday, Tuesday, Wednesday, Thursday and acknowledged leaving early on Friday due to an appointment. She indicated that she wished the employer had communicated more and highlighted that she did not receive a check for two weeks after it was due.

The claimant was a pleasant and forthright witness. It is appreciated that the claimant was not tracking her time contemporaneously and was relying on the employer to do so. However, without some more evidence than what was testified to at hearing, the claimant has not met her burden of proof. It is believed that the claimant believes she is owed for additional hours, but without something more to substantiate her claim, as it is the claimant's burden of proof in this matter, this Hearing Officer cannot find in her favor.

DECISION

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

June 18, 2021
Date of Decision

Daisy Mongeau
Daisy Mongeau, Hearing Officer

DAM/sw