

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

█
v.

MONTCALM GOLF COURSE, LLC
CASE #62922

DECISION OF THE HEARING OFFICER

APPEARANCES: The claimant, █ appeared pro se.
(TELEPHINCALLY): Charles Currier represented the employer, Montcalm Golf Course, LLC.

NATURE OF DISPUTE: RSA 275:43 I-Weekly, unpaid wages.
RSA 275:43-b-Payment of salaried employees, unpaid salary.

DATE OF HEARING: August 12, 2021

BACKGROUND AND STATEMENT OF THE ISSUES

The New Hampshire Department of Labor file reflects that a wage claim in the amount of \$890.84 was filed by the claimant on June 18, 2021. A notice of wage claim was mailed to the employer on June 21, 2021. The employer objected to the wage claim on June 30, 2021. A hearing was scheduled in this matter and a hearing notice was mailed to the parties on July 13, 2021.

A formal hearing was held on August 12, 2021. Live testimony was provided by the claimant and Charles Currier.

FINDINGS OF FACT

The claimant testified that he worked for the employer as a Head Chef. He made \$1,300 a week, before taxes. His end date with the employer was June 15, 2021. The claimant testified that he worked for the employer from 6:00 a.m. to 6:00 p.m., eighty hours a week. The claimant explained that he made sandwiches in the morning and turned on the coffee pot in the pro shop. He stated that he had not had a day off in a month when he took June 13, 2021, a Sunday, off. He stated that on Monday, June 14, 2021 he spoke to Kristen Brenner-Currier and gave two weeks' notice. Also on June 14th, he put in an order, made a menu, and paid a bill for the employer. He did this from home.

The claimant testified that Ms. Brenner-Currier notified him on June 15, 2021, a Tuesday, that he did not need to come in and asked for him to drop off his credit card and keys.

The claimant is seeking wages for the week of June 13th to June 19th. He indicated that he has asked the employer to pay him and this was denied. He also sent a text message to the employer to notify that he had filed a wage claim. The claimant stated that all of his contact has been with Ms. Brenner-Currier; he has not had communication with Charles Currier prior to hearing.

Charles Currier explained that the employer is a seasonal business that is open five and an half months of the year and that the most important days of the week are Saturday and Sunday. He stated that the claimant was expected to work on Saturday and Sunday. However, the claimant did not show up for work on Sunday, June 13th and also did not show up on June 14, 2021. Mr. Currier explained that the claimant was not expected to show up at work at 6:00 a.m. He acknowledged that the claimant was responsible for making breakfast sandwiches, but highlighted that the course opens at 7:30 a.m. Mr. Currier indicated that the claimant never worked eighty hours a week.

Mr. Currier stated that the claimant did a good job for the first few weeks, but then his quality went down and on June 10, 2021, he left at 1:00 p.m. when there was an event taking place that evening. The claimant then worked half a day on Saturday, June 12, 2021. Mr. Currier testified that the claimant was not instructed to place an order from home as he did on June 14th. The order was received by the employer.

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 when the claimant was hired, he knew the terms of his employment to include working weekends. The employer pointed out that after the claimant's work was not up to standard, he was terminated. The employer highlighted that after the claimant was terminated, he reported that he placed an order on June 14, 2021 from home.

The claimant argued that he worked eighty hours a week for the employer and stayed until 8:00 p.m. The claimant highlighted that he paid a bill on June 14, 2021, made a menu, and put in an order. The claimant requested a finding in his favor.

There does not seem to be any disagreement that the claimant did not work on June 13, 2021 and that on June 14, 2021, he did not present to the employer or in the days following. In terms of the claimant's testimony that he placed an order, planned a menu, and paid a bill on June 14, 2021, the evidence supports that the claimant

performed the action of placing an order, as it was delivered. However, beyond the claimant's testimony, there was no evidence of when he performed this action. Further, the employer credibly testified that the claimant was not given authorization to do tasks from home and that the expectation was that he came into work. The claimant decided not to present to work on June 14, 2021, as was anticipated. As such it is not found that the claimant is entitled to any wages for that day. As noted previously, the testimony by the claimant was that he did not work any of the other days for the time period from June 13, 2021 to June 19, 2021. As such, it is determined that the claimant has not met his burden of proof to show that he is entitled 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.

August 24, 2021
Date of Decision

Daisy Mongeau
Daisy Mongeau, Hearing Officer

DAM/cb