

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF LABOR  
CONCORD, NEW HAMPSHIRE

[REDACTED]

v.

TRINITY LOGISTICS, LLC  
CASE #62977

DECISION OF THE HEARING OFFICER

**APPEARANCES:** The claimant, [REDACTED] appeared pro se.  
The employer, Trinity Logistics, LLC, failed to appear.

**NATURE OF DISPUTE:** RSA 275:43 I-Weekly, unpaid wages.  
RSA 275:43 V-Weekly, unpaid vacation pay/sick pay/personal day  
pay/PTO.

**DATE OF HEARING:** August 26, 2021

**BACKGROUND AND STATEMENT OF THE ISSUES**

The New Hampshire Department of Labor file reflects that a wage claim in the amount of \$501.15 was filed by the claimant on June 29, 2021. A notice of wage claim was mailed to the employer on June 30, 2021. A hearing was scheduled in this matter and a hearing notice was mailed to the parties on July 28, 2021.

A formal hearing was held at the Department on August 26, 2021. In terms of service, the Hearing Notice was mailed to 400 Quality Drive Hooksett, NH 03106, which the claimant represented was the address he presented to for the employer. This Hearing Officer notes that none of the mail sent to the employer has been returned as undeliverable. It was deemed that the employer had proper notice of the proceedings. After waiting fifteen (15) minutes with no communication from the employer that they were trying to appear at the Department and in accordance with Administrative Rule Lab 203.04, the Hearing went forward with the testimony of the claimant.

**FINDINGS OF FACT**

The claimant started working for the employer in August 2020 as a Parcel Delivery Driver. Craig Jennings is the owner/operator for the employer, who provides a delivery service for Amazon. The claimant last worked for the employer in June 2021. The claimant explained that he did not work for a few weeks because of COVID-19 protocol and then he was never put back on the schedule by the employer. He did not quit.

The claimant testified that on October 28, 2020, when he logged in on the iPad in the morning, it did not take his initial punch in. After completing his shift, he realized that the iPad did not take his punch in, so he punched in again and later punched out. The records showed that he punched in for one hour on this day from 3:00 p.m. to 4:00 p.m. The claimant testified that he worked seven hours that were not accounted for due to the technological issue. The claimant stated that his rate of pay was \$18.35 and provided a copy of a pay stub reflecting that. He stated that he had a verbal conversation with Mr. Jennings about this issue shortly thereafter and was told that it would be taken care of. On November 10, 2020, the claimant texted Mr. Jennings's wife, Lori Jennings, about this issue. There was no response. The claimant showed the text message at hearing. At the time of hearing, the claimant testified that he has not been paid for his hours worked.

The claimant is also seeking sixteen hours of paid time off. He explained that his rate of pay for paid time off was \$20.00 an hour. At hearing, the claimant logged into the ADP website, into his account, which showed a PTO balance of 16.08 hours. The claimant produced a text message to Mr. Jennings dated June 27, 2021 requesting him to cash out the claimant's PTO. Mr. Jennings responded to the text by saying ok John. The claimant stated that he did not reach out to Amazon for the PTO, but added that he did not communicate with Amazon during his time as an employee with the noticed employer. At the time of hearing, the claimant testified that he has not been paid his PTO balance.

### **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 claimant argued that the employer is required to pay him by law and requested a finding in his favor.

The claimant's argument is found to be persuasive. The claimant was a credible and forthright witness and his testimony that he was not paid for all hours worked on October 28, 2020 and his PTO is accepted. The evidence submitted by the claimant, specifically the text messages and the ADP account balance supports his testimony. It is determined that the claimant has met his burden of proof in this matter. As such, the claimant is entitled to 7 hours at a rate of \$18.35 ( $7 * \$18.35 = \$128.45$ ) and 16.08 hours at a rate of \$20.00 ( $16.08 * \$20.00 = \$321.60$ ). In total, this is \$450.05 ( $\$128.45 + \$321.60$ ). Although this figure is less than the amount requested by the claimant, it is believed that this is calculated correctly based on the testimony and evidence provided at hearing.

### **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 this Department finds that the claimant proved by a preponderance of the evidence that he is owed the claimed wages, it is hereby ruled that the Wage Claim is valid in the amount of \$450.05.

The employer is hereby ordered to send a check to this Department, payable to ██████████  
██████████ in the amount of \$450.05, less any applicable taxes, within 30 days of the date of this  
Order.

September 09, 2021  
Date of Decision

*Daisy Mongeau*  
Daisy Mongeau, Hearing Officer

DAM/sw