

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

██████████
v.

Jeremy Goodwin d/b/a Jeremy's Roadside BBQ & Catering
CASE #63269

DECISION OF THE HEARING OFFICER

APPEARANCES: Claimant, self-represented
Employer, self-represented (failed to appear)

NATURE OF DISPUTE: RSA 275:43, I — Weekly (unpaid wages)
Statutory interest

DATE OF HEARING: October 26, 2021

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant filed a wage complaint on August 3, 2021, alleging that she worked as a counter server at the employer's restaurant in Northwood and that she is owed for four weeks' pay for paychecks due on July 2, 16, 23, and 30, 2021. She received a check on July 4 but it bounced after she deposited it. Her total claim was for \$858.94 (amended at the hearing to \$890.28). She also requested an award of statutory interest.

Notice of claim was sent to the employer on August 9, 2021. The employer did not file an objection. The claimant requested a hearing on September 17, 2021 and a hearing notice was sent on September 17, 2021.

At the appointed hour for the hearing, the employer failed to appear. Fifteen minutes later, he still had not appeared or contacted the Department. The notice of hearing was mailed to the employer at the address provided on the wage claim, Jeremy Goodwin, ██████████. The notice was not returned undelivered. The claimant testified that the employer lived with his parents at that address. It was determined that the employer received proper notice of the hearing. The hearing proceeded in his absence, pursuant to Department Administrative Rule Lab 203.04.

FINDINGS OF FACT

The following findings are based on the testimony of the claimant and matters of record in the Department file. During the course of the hearing, the claimant acknowledged under oath that her written statements to the Department were true and accurate to the best of her knowledge and belief, and those statements are treated herein as part of the testimony in the case.

Claimant is [redacted] years old and lives with her parents in [redacted]. She is a senior at [redacted]. She started working for the employer part-time at his diner in Northwood in December 2020. During the summer of 2021 she worked Wednesday through Friday 4:00 p.m. to 9:30 p.m. and Saturday and Sunday 11:00 a.m. to 9:30 or 10:00 p.m. She was paid \$10.00 per hour to start and later raised to \$11.25. Weekly pay periods ran from Sunday to Saturday and she was paid by direct deposit on the Friday following the end of the pay period.

She kept track of her hours using a mobile app provided by the employer. She still had the app on her mobile phone and called up her time records during the hearing. She was not paid for the weeks ending July 3, 10, 17, and 24. (She did receive a paper check on July 4, 2021 but it bounced after she deposited it.)

She testified that she worked and earned the following hours and wages over the time period in question:

Week ending	Hours	Wages Due (\$)
July 3	38.23	430.13
July 10	25.63	288.39
July 18	8.91	100.32
July 24	6.35	71.44
TOTAL WAGES DUE		890.28

The amount claimed was slightly more than what was stated in her written claim. Claimant testified that the above amount was accurate based on her time records.

Claimant's last day at work was July 22, 2021. The restaurant closed after that and an eviction notice was placed on the door.

DISCUSSION AND CONCLUSIONS

The claimant had the burden of proving by a preponderance of the evidence that she was owed unpaid wages. Proof by a preponderance as defined in Lab 202.05 is a demonstration by admissible evidence that a fact or legal conclusion is more probable than not. The hearing officer is charged with evaluating the testimony and exhibits in the case and deciding the issues

presented, based upon "reliable, probative, and substantial evidence," Department Rule Lab 204.07(n).

Claim for unpaid wages. Claimant's testimony was specific and was corroborated by records contained in the mobile app. No reason was found to question her credibility or the accuracy of her testimony. Her evidence was un rebutted. It is found that the claimant met her burden of proving that she was owed her weekly wages earned over the four weeks ending July 24, 2021, in the amount of \$890.28.

Claim for interest. Pursuant to RSA 524:1-b, simple interest begins to accrue from the date of writ, which in this case corresponds to the date the claim was filed, August 3, 2021, and continues through the date of judgment, November 19, 2021. Galloway v. Chicago-Soft, Ltd. (N.H. 1998). Using the applicable annual interest rate, set via RSA 336:1, the total award of interest is as follows:

Principal amount:	\$890.28
August 3 through November 19, 2021 (109 days) at 2.09 percent per annum	\$ 5.56

DECISION

Claimant having proved that she is owed weekly wages totaling \$890.28, her claim is ruled to be valid to that extent. To that amount, statutory interest of \$5.56 is added.

The employer is hereby ordered to send a check to the Labor Department, payable to [REDACTED], in the amount of \$895.84, less applicable deductions for the unpaid wage component of \$890.28 but not for the statutory interest, within 30 days of the date of this Order.

November 19, 2021
Date of Decision


George A. Stewart, Hearing Officer

GAS/sw