

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF LABOR  
CONCORD, NEW HAMPSHIRE

[REDACTED]

v.

Alpine Healthcare Center

Case No. 63293

DECISION OF THE HEARING OFFICER

**Appearances:** [REDACTED] claimant, did not appear  
Avi Goldstein, CEO, on behalf of Alpine Healthcare Center

**Nature of Dispute:** RSA 275:43 I – Weekly, Unpaid Wages / Incentive Pay  
RSA 275:43 V – Weekly, Unpaid Earned Time / Vacation  
Pay/Salary/Expenses  
Interest

**Claimant:** [REDACTED] did not appear

**Employer:** Alpine Healthcare Center

**Date of Hearing:** October 7, 2021

BACKGROUND AND STATEMENT OF THE ISSUES

On the basis of the claimant's assertion that he is owed \$5,123.65 in unpaid wages in the form of unpaid wages and mileage, he filed a Wage Claim with the New Hampshire Department of Labor (DOL) on August 12, 2021; a Notice of Wage Claim was forwarded to the employer on August 20, 2021. The employer's written objection to the Wage Claim was received on August 30, 2021. The claimant requested a hearing on August 31, 2021. Notices of Hearing were sent to all parties on September 9, 2021.

A formal hearing was held at the Department of Labor Headquarters in Concord, New Hampshire on October 7, 2021. The hearing was scheduled to start at 8:30am. The formal hearing was conducted telephonically, at the request of the employer. The DOL reached out to the claimant on October 6, 2021; he assented to the hearing proceeding telephonically. At 8:30am on October 7, 2021, the hearing officer called the phone number provided by the claimant. The call went to voicemail; the mailbox was full, and the hearing officer was unable to leave a message. The hearing officer called back, and the call again went to voicemail. At 8:45, a third call was made to the claimant and there was no answer. The outgoing voicemail message identifies the phone recipient as [REDACTED] [REDACTED]

Hearing notices were mailed via first class mail on September 9, 2021. The claimant's hearing notice was not returned to the Department. He was found to have proper notice of the scheduled hearing. After waiting 15 minutes as required by administrative rules, the hearing went forward in the absence of the claimant.

### FINDINGS OF FACT

The DOL received a wage claim filed on behalf of ██████████ on August 12, 2021. The claim alleges that the claimant was employed through 8/9, but was only paid through 7/26. The claimant alleged he is owed \$5,000.00 in unpaid wages in addition to \$123.65 in mileage expenses, plus interest.

The claimant did not appear at the hearing to provide any additional evidence or testimony.

Avi Goldstein, CEO, provided a written objection to the wage claim on behalf of the employer which was received by the DOL on August 30, 2021. Mr. Goldstein provided paystubs and responded that there was one week for which the claimant was not paid as he did not perform any work during that week.

Mr. Goldstein indicated that the claimant's employment ended on August 2, 2021 as the claimant was terminated for cause. He testified that the claimant was a salaried employee and the employer is relying on the pay records submitted in their objection.

The paystub submitted for review are for pay period beginning July 8, 2021 and ending July 21, 2021 and pay period beginning July 22, 2021 and ending August 4, 2021. The paystub for the period of July 8, 2021 through July 21, 2021 with the pay date of July 29, 2021 shows 80 hours were paid at a rate of \$62.50 per hour for total of \$5,000.00 plus travel and the amount of \$123.65, phone allowance in the amount of \$65.00, and other expenses as noted. For the pay period of July 22 through August 4, 2021 with the pay date of August 12, 2021, the paystub shows 40 hours paid suspension at \$62.50 per hour for a total of \$2,500 +24 hours paid at \$62.50 per hour for total of \$1,500. Plus, the phone allowance of \$65.00. The pay check total is \$4,065.00 gross pay.

### 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 \$5,000.00 in unpaid salary plus \$123.65 for mileage reimbursement. Proof by a preponderance of evidence as defined in Lab 202.05 means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not.

The claimant did not appear for the hearing to offer evidence in support of his wage claim. The wage claim he filed on August 12, 2021 alleges that he worked through August 9 but was only paid through July 26 but was only paid through July 26. This assertion is belied by the paystub for the pay period of July 22, 2021 through August 4, 2021 which demonstrates wages were paid in the amount of \$4,065.00. Moreover, Mr. Goldstein testified that the claimant's employment was terminated for cause on August 2, 2021 which contradicts the claimant's assertion that he was employed through August 9, 2021.

With respect to the claimant's claim for mileage reimbursement, there was no evidence submitted regarding the dates traveled, the number of miles traveled, or the reimbursement rate.

It is the claimant's burden to prove, by a preponderance of the evidence, that he is owed unpaid wages in the form of unpaid salary and mileage. Given the reasoning explained above, the claimant has not met his burden of proof in this matter.

**DECISION**

Based on a thorough review of the evidence and testimony presented, and as RSA 275:43 (I) requires that an employer pay all wages due to an employee, and RSA 275:43 (V) governs when an employee is entitled to salary and expenses, it is found that the claimant did not prove, by a preponderance of the evidence, that he is due unpaid wages and it is hereby ruled that **this Wage Claim is invalid.**

Date of Decision: October 20, 2021

  
\_\_\_\_\_  
Tahra White, Hearing Officer

Original: Claimant  
cc: Employer

TW/cb