

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE

[REDACTED]

v.

GRANITE CONSULTING LLC

Case No. 63666

DECISION OF THE HEARING OFFICER

Appearances: [REDACTED] Claimant
Employer – failed to appear

Nature of Dispute: RSA 275:43 I - Weekly, Unpaid Wages

Date of Hearing: February 10, 2022

BACKGROUND AND STATEMENT OF THE ISSUES

The current issue concerns the employer's alleged failure to pay the claimant all the wages she alleges are due. Specifically, the claimant asserts that she is owed her salary from 4/21/2021 – 10/1/2021. Ms. [REDACTED] asserts that the total amount of her claim is \$11,317.49.

The claimant filed a Wage Claim with the Department on October 27, 2021. A Notice of Wage Claim was forwarded to the employer on November 18, 2021. The employer did reply. The hearing notice was dated December 17, 2021 and a hearing was scheduled accordingly.

Despite having proper notice, the employer did not appear for the scheduled hearing. After waiting more than fifteen minutes pursuant to Lab Rule 203.04, the hearing proceeded in the employer's absence. The claimant submitted a copy of her paychecks from 04/21/2021 through 07/30/2021 and a spreadsheet representing pay periods she worked without receiving a paper check from 7/30/2021 through 10/1/2021.

FINDINGS OF FACT

The employer is no longer in business. They were located in Dover, New Hampshire and provided a service unwinding their client's Timeshare Agreements for a fee. Most clients hired them remotely and provided a credit card to retain them. The claimant was hired on 11/6/2017. She was a customer service representative. She worked part-time, her rate of pay was \$17.00 per hour, and received a bonus of \$25 per successfully closed case. The claimant was terminated by the employer October 1, 2021.

The claimant testified that relieving clients from their Timeshare Agreements, at best took a long time. It required research into the applicable laws and regulatory agencies in different states. Then individual paperwork describing why the client should be released from the Agreement would need to be completed for each state. Then correspondence with the relative agency(s) would follow. This delay became extraordinary during the pandemic shutdowns. State agencies were not replying to her employer. It created a very long backlog for all of their clients. Even when these various agencies reopened, the agencies were backlogged. Many of Granite Consulting's clients became so frustrated with the delay that they had their banks cancel payments by obtaining "chargebacks" on the credit cards they used to retain Granite Consulting.

Only the owner had access to the financial records of the business. However, the claimant suspected that Granite Consulting was running out of money. On April 21, 2021, the employer asked the claimant not to cash the paycheck she received. He told her that the "funds to cover that check would be deposited soon." The claimant continued working with false promises of payment to follow until October 1, 2021.

The claimant submitted the paychecks she received but never cashed that were generated by a payroll company from 04/21/2021 – 07/30/2021. She also submitted a detailed spreadsheet of the hours worked but with no actual paper check from July 30, 2021 until October 1, 2021.

On October 1, 2021, the claimant reported to work. Her employer was facing eviction. There was no longer an internet connection, telephone or other technology required for her to do her job. The employer told her she was "laid off."

The employer did not appear at hearing to present evidence.

DISCUSSION AND CONCLUSIONS

The claimant has the burden of proof in these matters to show by a preponderance of the evidence that she is owed wages. 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.

After reviewing the evidence and testimony, the claimant's wage claim with regards to nonpayment of wages is found to be persuasive. Specifically, the claimant testified that she is owed salary in the amount of \$11,317.49. The claimant was credible, and her testimony is adopted. The claimant is owed wages for the time worked.


RSA 275:43 I requires that an employer pay all wages due to an employee within 8 days of the expiration of the work week. The employer did not do so. The claimant was a salaried employee. Pursuant to RSA 275:43-b, salaried employees "shall receive full salary for any pay period in which such employee performs any work without regard to the number of days or hours worked." Therefore, the claimant is entitled to her full salary from 04/21/2021 through 10/01/2021.

DECISION

Based on the testimony and evidence presented, this Department finds the claimant met her burden to prove by a preponderance of evidence that she is owed additional wages. It is hereby ruled that this Wage Claim is valid. The claimant is entitled to \$11,317.49.

The employer is ordered to send one check to this Department payable to ██████████ in the amount of \$11,317.49, less any applicable taxes, for these unpaid wages.

March 8, 2022
Date of Decision



David I. Ballinson, Esq., Hearing Officer

Original: Claimant
cc: Employer

DIB/cb