

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF LABOR  
CONCORD, NEW HAMPSHIRE

██████████  
v.  
WELL TRANSIT

CASE NO. 22-WG-00029

DECISION OF THE HEARING OFFICER

**Appearances:** ██████████ the claimant appeared Pro Se.  
The employer did not appear at hearing.

**Nature of Dispute:** RSA 275:43 b – Payment of Salaried Employees, Unpaid Salary

**Employer:** Well Transit

**Witnesses:** ██████████ Claimant

**Date of Hearing:** September 27, 2022

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant filed a wage claim on August 9, 2022, asserting that he is due unpaid salary in the amount of \$1,200.00.

The employer was notified by the Department of Labor (DOL) via mailing dated August 10, 2022. There was no response from the employer within the ten-day period provided by statute. This hearing was then scheduled accordingly for review of the claimant's claim for unpaid wages under RSA 275:43 b for September 27, 2022 at 1:00 pm. The employer did not respond to the request for hearing. The claimant appeared in person at the appropriate date and time. The employer did not send a representative. After waiting 15 minutes as required by the DOL's administrative rules the hearing proceeded in the employer's absence.

FINDINGS OF FACT

██████████ is a ██████████ who began work at Well Transit in May of 2022. The company is owned by Abdul Abukar. The company provides transportation to medical appointments for people in addiction recovery. He worked as a driver for the company and was paid a salary of \$1,200 every two weeks via direct deposit.

The claimant worked his normal shifts between July 18, 2022 and July 21, 2022. The claimant reached out via the WhatsApp messenger on July 20, 2022 and told Mr.

Abukar that his last day with Well Transit would be July 21, 2022 as he had accepted a position at Allied Universal. He did not receive a response to this message.

The claimant did not receive his direct deposit on August 5, 2022. The claimant attempted to contact Mr. Abukar on this date via phone and e-mail. On the phone he had to leave a voicemail. The claimant did not receive a response to his e-mail or voicemail and filed his wage claim on August 10, 2022.

As of the hearing date, the claimant had received no response from the employer. However, the claimant noted that Mr. Abukar may have been out of the country visiting relatives for a portion of this time.

### 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 unpaid 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.

The claimant argued that he was a salaried employee. The claimant further argued that he was not paid his salary for his last pay period. The claimant finally argued that he had made a reasonable attempt to reach out to the employer to resolve this issue with no response.

The claimant testified credibly to the facts above. Overall, there has been a lack of response from the employer here to refute the claimant's position. The employer did not respond to the notice of wage claim sent by the DOL. The employer also did not respond to the claimant's e-mail and voicemail. Finally, the employer did not appear at hearing to dispute the claimant's contentions with evidence or testimony.

### DECISION

Based on the evidence and testimony presented, the claimant has showed by a preponderance of the evidence that salary was due for the pay period ending on July 22, 2022. It is found that the wage claim for unpaid salary is **valid**.

The employer is ordered to send a check in the amount of \$1,200.00 to this Department payable to ██████████ less any applicable taxes, for the unpaid wages to this Department within 30 days of the date of this order.

  
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Timothy G. Fischer  
Hearing Officer

Date of Decision: October 17, 2022

TGF/js