



JANET T. MILLS
GOVERNOR

DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
45 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0045

LAURA A. FORTMAN
COMMISSIONER

WAGE & HOUR DIVISION

DR. JASON MOYER-LEE
DIRECTOR

October 4, 2024

Chestnut Partners LLC D/B/A Great Clips
and
Timothy Renyi, owner
251 US Route One
Falmouth, ME 04105

RE: Violations of Title 26 MRS. Inspection #486399

Dear Timothy Renyi,

When our inspector investigated a complaint against you and your business on January 9, 2024, the following violations of Maine Labor Law were found:

Timely and Full Payment of Wages

Section 621-A, entitled “Timely and Full Payment of Wages”,¹ (materially) states:

1. Minimum frequency and full payment. At regular intervals not to exceed 16 days, every employer must pay in full all wages earned by each employee, except members of the family of the employer and salaried employees. Each payment must include all wages earned to within 8 days of the payment date. Payments that fall on a day when the business is regularly closed must be paid no later than the following business day. An employee who is absent from work at a time fixed for payment must be paid as if the employee was not absent. ...

2. Regular payment required. Wages must be paid on an established day or date at regular intervals made known to the employee. The interval may not be increased without written notice to the employee at least 30 days in advance of the increase.

¹ <https://legislature.maine.gov/statutes/26/title26sec621-A.html>

In this case, the employers failed to pay ██████████ in full on the established pay date of 12/07/2023. ██████████ was owed 8 hours for her last day of work totaling \$112.00. The employers paid the wages five weeks late on 01/10/2024.

Total violations: 1

Cessation of Employment

26 MRS §626 Cessation of Employment An employee leaving employment must be paid in full no later than the employee's next established payday. Any overcompensation may be withheld if authorized under section 635 and any loan or advance against future earnings or wages may be deducted if evidenced by a statement in writing signed by the employee. Whenever the terms of employment or the employer's established practice includes provisions for paid vacations, vacation pay on cessation of employment has the same status as wages earned. All unused paid vacation accrued pursuant to the employer's vacation policy on and after January 1, 2023 must be paid to the employee on cessation of employment unless the employee is employed by an employer with 10 or fewer employees or by a public employer. If the employee's employment is governed by a collective bargaining agreement that includes provisions addressing payment of vacation pay upon cessation of employment, the collective bargaining agreement supersedes this paragraph.

In this case, the employers failed to pay ██████████ 21.6 hours of unused accrued vacation totaling \$302.40 on the next established payday of 12/07/2023 after leaving employment. The employers paid the balance five weeks late on 01/10/2024.

Total violations: 1

Penalties

When assessing fines, the Division generally relies on Section 53 of Title 26, which (materially) states:

...[T]he director may assess a fine against any an employer, officer, agent or other person that violates any provision of chapter 7, subchapters 1 to 4 for each violation of those subchapters. The fine may not exceed \$1,000 or the amount provided in law or rule as a penalty for the specific violation, whichever is less. In addition, the director may order any employer, officer, agent or other person that the director finds is in violation under chapter 7, subchapters 1 to 4 or section 1312 to pay unpaid wages determined to be due, as well as an additional amount equal to twice

the amount of unpaid wages as liquidated damages and a reasonable rate of interest. ... The director shall adopt rules to govern the administration of the civil money fine or penalty provisions. The rules must include a right of appeal by the employer and a range of monetary assessments with consideration given to the size of the employer's business, the good faith of the employer, the gravity of the violation and the history of previous violations. ...

The Rules referred to above are entitled: *Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations*.² Pursuant to these rules, the number of violations will be multiplied by \$1,000. The result will then be reduced if the employer has fewer than 100 employees, no history of previous violations, the employer is not being cited for multiple or grave violations, and the employer has demonstrated “good faith”, all of which are defined in the rules.

Employer size, history, and gravity of the violation are the relevant criterion to the imposition of fines in this case. The employers in this case have an unknown number of employees. As such, we have used the smallest employer size category. This means that, pursuant to Section II (1), the penalty amount in all violations will be reduced by 33.3%. Pursuant to Section II (2), the result will then be reduced by 20% because the employers have no history of previous violations. Pursuant to Section II (3), the result will then be reduced by another 20% because the violation was not grave.

Timely and Full Payment of Wages; Cessation of Employment

The violations for timely and full payment of wages (Section 621-A) and for cessation of employment (Section 626) are both subject to the same penalty range. This is set out at Section 626-A, which (materially) states: “Whoever violates any of the provisions of...sections 621-A to 623 or section 626...is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.”³

In this case, there were 2 violations. Chapter 9 Rules require us to start at \$1,000. The \$1,000 figure is multiplied by the 2 violations resulting in a penalty amount of \$2,000. The penalty is then reduced by 33% for employer size, resulting in a penalty amount of \$1,334.00. The penalty is then reduced by 20% because the employers have no history of previous violations, resulting in a penalty amount of \$1,067.20. The penalty is then reduced by another 20% because the violation was not grave, resulting in a **total penalty amount of \$853.76 for violations in this category.**

Wages, Liquidated Damages, and Interest

²The rules which are currently in force, and upon which this citation relies, can be found here: <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fsos%2Fcec%2Frules%2F12%2F170%2F170c009.docx&wdOrigin=BROWSELINK>.

³ <https://legislature.maine.gov/statutes/26/title26sec626-A.html>

Section 53 of Title 26 M.R.S. authorizes the Director to order an employer to pay wages, liquidated damages and interest:

In addition, the director may order any employer, officer, agent, or other person who the director finds in violation under sections 625-B, 626-A, 654, 670, or 1312, to pay unpaid wages determined to be due, as well as an additional amount equal to twice the amount of unpaid wages to any employee as liquidated damages and a reasonable rate of interest.

In this case, the employers failed to pay the employee \$414.40 on the established pay date of 12/07/2023. The employers paid the employee more than one month later on 01/10/2024. The employers owe the employee an additional \$828.80 in liquidated damages.

The interest in this case is calculated at 10.88% per year, the same rate used in Kennebec County Superior Court. We multiply the 10.88% interest by \$828.80 liquidated damages, resulting in \$90.17 total annual interest. We then divide that amount by 365 days, resulting in a total amount of \$0.247 daily interest. The daily interest is then multiplied by the 34 days that the wages went unpaid, **the result is a total interest amount of \$8.40 owed to the worker.**

Appeals and Settlements

The total penalty for the above violation(s) is \$853.76. Please make checks payable to “Treasurer, State of Maine” and mail to the address at the top of this letter.

The total liquidated damages and interest owed to the worker for the above violation is \$837.20. Payment must be made directly to the worker and proof of payment submitted to the Wage and Hour Division.

Pursuant to Section 53 of Title 26, you have the right to appeal this citation. The Bureau’s appeals process is set out in Section III of the Chapter 9 Rules.

If you choose to file an appeal of any violation or penalty, you must do so within fifteen (15) business days of receipt of this notice. The appeal must be submitted in writing to the Commissioner. The employer may request the appeal by U.S. mail, hand delivery, or email. If you file an appeal, be specific as to which violation(s) or penalties you wish to appeal. If a request for a formal appeal is received timely, a hearing will be scheduled. The Commissioner may serve as the hearing officer or assign the appeal to a qualified hearing officer. The hearing will be at the headquarters of the Bureau or at a place mutually agreeable to the parties. The hearing may be held telephonically or by remote video, at the discretion of the hearing officer. All proposed penalties will be stayed until after the formal appeal is heard.

If no response is received within the designated timeframe, you accept all citations and any penalties assessed. The notice will become a final order and payment will be due at that time.

We strongly recommend that any correspondence be sent by certified mail. Failure to correct violations may result in additional penalties for each violation that is not corrected.

You may approach the Bureau to negotiate a settlement to waive the violations or penalties at any time during this process. However, settlement negotiations will not affect the deadline to appeal.

If you have questions regarding this notice, you may contact the Bureau of Labor Standards, Wage & Hour Division at (207) 623-7900.

Respectfully,

A handwritten signature in black ink that reads "Scott R. Cotnoir". The signature is written in a cursive style with a large, prominent "S" at the beginning.

Scott Cotnoir, Director
Wage and Hour Division
Inspection #486399