



DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
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AUGUSTA, MAINE
04333-0045

LAURA A. FORTMAN
COMMISSIONER

JANET T. MILLS
GOVERNOR

WAGE & HOUR DIVISION

DIRECTOR

October 25, 2024

Pine State Builders
and Jason Kehrer, owner
18 Sunrise Ln
Whiting, ME 04691

RE: Violations of Title 26 MRS. Inspection #483511

Dear Jason Kehrer,

When our Inspector visited your place of business on September 26, 2023, the following violations of Maine Labor Law were found:

Minimum Wage

Section 664 of Title 26 (materially) states: "Except as otherwise provided in this subchapter, an employer may not employ any employee at a rate less than the rates required by this section." The extract below from Subsection 1 explains how the minimum wage is calculated:

On January 1, 2021 and each January 1st thereafter, the minimum hourly wage then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of 5¢.

The minimum wage in 2023 was \$13.80.

In this case, the employers failed to pay at least minimum wage to the following employees on the established pay date of 07/14/2023.

i [REDACTED]

- [REDACTED]

Violations: 5

Overtime

Section 664(3) of Title 26 (materially) states:

An employer may not require an employee to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate is paid for all hours actually worked in excess of 40 hours in that week. The regular hourly rate includes all earnings, bonuses, commissions and other compensation that is paid or due based on actual work performed and does not include any sums excluded from the definition of "regular rate" under the Fair Labor Standards Act, 29 United States Code, Section 207(e).

In this case, the employers failed to pay employee [REDACTED] overtime on the established pay date of July 14, 2023.

Violations: 1

Timely and Full Payment of Wages

Section 621-A, entitled "Timely and Full Payment of Wages", (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.

In this case, the employers failed to pay the following 5 employees in full on the established pay date of 07/14/2023. The employer paid the wages 75 days later on 09/26/2023.

- [REDACTED] \$1,710.00
- [REDACTED] \$555.00
- [REDACTED] \$470.00
- [REDACTED] \$200.00
- [REDACTED] \$800.00

Violations: 5

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*. 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%. Since the employers are being cited for multiple violations, they are not entitled to an additional penalty reduction.

Minimum Wage and Overtime Rate

The violations for minimum wage (Section 664(1)) and overtime rate (Section 664(3)) are subject to the same penalty range. This is set out in Section 671, which (materially) states: “Any employer who violates this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$200.”

In this case, there are 6 violations. Chapter 9 Rules require us to start at \$1,000. The \$1,000 figure is multiplied by the 6 violations resulting in a penalty amount of \$6,000. The penalty is then reduced by 33% for employer size, resulting in a penalty amount of \$4,002.00. Since the penalty cannot exceed \$200 per violation, the result is then reduced by \$2,802.00, resulting in a **total penalty amount of \$1,200.00 for violations in this category.**

Timely and Full Payment of Wages; Records

The violations for timely and full payment of wages (Section 621-A) and for daily time records (Section 622) are all subject to the same penalty range. This is set out in Section 626-A, which (materially) states: “Whoever violates any of the provisions of...sections 621-A to 623...is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.”

In this case, there are 5 violations. Chapter 9 Rules require us to start at \$1,000. The \$1,000 figure is multiplied by the 5 violations resulting in a penalty amount of \$5,000.00. The penalty is then reduced by 33% for employer size, resulting in a penalty amount of \$3,335.00. Since the penalty cannot exceed \$500 per violation, the result is then reduced by \$835.00, resulting in a **total penalty amount of \$2,500.00 for violations in this category.**

Liquidated Damages, and Interest

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 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 to any employee as liquidated damages and a reasonable rate of interest.

In this case, the employers failed to pay 5 employees on the established pay date of 07/14/2023. The employers paid the employees 75 days later on 09/26/2024. The amount of liquidated damages the employers owe to each employee is identified in Table 1, below.

The interest in this case is calculated at 7.88% per year, the same rate used in Kennebec County Superior Court. We multiply the 7.88% interest by the amount of liquidated damages owed, resulting in a total annual interest amount. We then divide that amount by 365 days, resulting in a total amount of daily interest. The daily interest is then multiplied by the 75 days that the wages went unpaid, the result is a total interest amount owed to each individual worker identified in Table 1, below.

Table 1: Liquidated Damages and Interest

Employee	Established Pay Date	Date Paid	Wages paid late	Number of days paid late	Liquidated Damages	Interest	Total amount owed
██████████	7/14/2023	9/26/2023	\$1,710.00	75	\$3,420.00	\$55.38	\$3,475.38
██████████	7/14/2023	9/26/2023	\$555.00	75	\$1,110.00	\$17.97	\$1,127.97
██████████	7/14/2023	9/26/2023	\$470.00	75	\$940.00	\$15.22	\$955.22
██████████	7/14/2023	9/26/2023	\$200.00	75	\$400.00	\$6.48	\$406.48
██████████	7/14/2023	9/26/2023	\$800.00	75	\$1,600.00	\$25.91	\$1,625.91

Total			\$3,735.00		\$7,470.00	\$120.95	\$7,590.95
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Appeals and Settlements

The total penalty for the above violations is \$3,700.00. 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 workers for the above violations is \$7,590.95. Payments must be made directly to the workers 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, and any wages, liquidated damages, or interest ordered to be paid. 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,



Scott Cotnoir, Director
Wage & Hour Division
Inspection #483511