



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

LAURA A. FORTMAN
COMMISSIONER

JANET T. MILLS
GOVERNOR

WAGE & HOUR DIVISION

DIRECTOR

October 25, 2024

Origins Sale ME LLC.
D/B/A Rose Mary Jane
Attn: Yana Teleguine, Managing Director for Northeastern Region
327 St John St.
Portland, ME 04102

RE: Violations of Title 26 MRS. Inspection #491200

Dear Yana Teleguine,

When our Inspector visited your place of business on May 28, 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", (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. ...

In this case, the employers failed to pay employee [REDACTED] in full on the established pay date of 05/24/2024. The employer paid the outstanding wages on 06/14/2024.

Violations: 1

Tips

Section 664(2), entitled "Tip credit", (materially) states:

The tips received by a service employee become the property of the employee and may not be shared with the employer. Tips that are automatically included in the customer's bill or that are charged to a credit card must be treated like tips given to the service employee. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company.

In this case, the employer failed to pay employee [REDACTED] the tips she earned in the amount of \$27.56, on the next regular payday of 05/24/2024. The tips were paid on 06/14/2024.

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*. 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 and history are the relevant criterion to the imposition of fines in this case. The employer in this case has less than 20 employees. 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 employer has no history of previous violations. Since the employer is being cited for multiple violations, they are not entitled to any further penalty reduction.

Timely and Full Payment of Wages

The violations for timely and full payment of wages (Section 621-A) are subject to the penalty range set out at 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 is 1 violation in this category. Chapter 9 Rules require us to start at \$1,000. The penalty is then reduced by 33% for employer size, resulting in a penalty amount of \$667.00. The penalty is then reduced by 20% because the employer has no history of previous violations, resulting in a penalty amount of \$533.60. Since the statutory maximum cannot exceed \$500 per violation, the penalty is reduced by \$33.60, resulting in **a total penalty amount of \$500 for the violation in this category.**

Tips violations

The penalty range for Tips violations is set out at Section 671 and (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 is 1 violation in this category. Chapter 9 Rules require us to start at \$1,000. The penalty is then reduced by 33% for employer size, resulting in a penalty amount of \$667.00. The penalty is then reduced by 20% because the employer has no history of previous violations, resulting in a penalty amount of \$533.60. Since the statutory maximum cannot exceed \$200 per violation, the penalty is reduced by \$333.60, resulting in **a total penalty amount of \$200 for the violation 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 employer failed to pay the employee \$27.56 on the established pay date of 05/24/2024. The employer paid the employee 22 days later on 06/14/2024. **The employer owes the employee an additional \$55.12 in liquidated damages.**

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 \$55.12 liquidated damages, resulting in \$4.34 total annual interest. We then divide that amount by 365 days, resulting in a total amount of \$0.012 daily interest. The daily interest is then multiplied by the 22 days that the wages went unpaid, **the result is a total interest amount of \$0.26 owed to the worker.**

Appeals and Settlements

The total penalty for the above violations is \$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 worker for the above violation is \$55.38. 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, 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,

A handwritten signature in black ink that reads "Scott R. Cotnoir". The signature is written in a cursive, slightly slanted style.

Scott Cotnoir, Director
Wage and Hour Division
Inspection #491200