



JANET T. MILLS
GOVERNOR

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

LAURA A. FORTMAN
COMMISSIONER

WAGE & HOUR DIVISION

DR. JASON MOYER-LEE
DIRECTOR

August 8, 2024

Pratt & Whitney
Attn: Jim Ingrassia - Attorney Legal Department
400 Main Street, M/S 132-12
East Hartford, CT 06108

RE: Violations of Title 26 MRS. Inspection #484095

Dear Jim Ingrassia,

When our Inspector, visited your place of business on September 27, 2023, the following violations of Maine Labor Law were found:

Cessation of Employment

Section 626, entitled "Cessation of Employment",¹ (materially) states:

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.

In this case, the employer failed to pay employee [REDACTED] on the next established payday of 9/15/2023 after leaving employment on 9/8/2023. The wages amounted to more than one week's average pay. The employer paid the wages more than one month later on 10/19/2023.

The employer was previously cited for similar violations on July 26, 2022.

¹ <https://legislature.maine.gov/statutes/26/title26sec626.html>

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 forfeiture against any employer, officer, agent or other person who violates any provision of chapter 7, subchapters I to IV for each violation of those subchapters. The forfeiture may not exceed \$1,000 or the amount provided in law or rule as a penalty for the specific violation, whichever is less. ... The director shall adopt rules to govern the administration of the civil money forfeiture 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, fines start at the minimum penalty or the lowest amount in the penalty range for a particular violation, and then must be increased for the severity of the violation, when the employer has a history of violations, repeat violations, and if the violations are “willful”. The fines decrease, on the other hand, when the employer demonstrates “good faith” or has 100 or fewer employees.

Severity, history of previous violations, repeat violations, and willfulness are the relevant criterion to the imposition of fines in this case. A reduction in fines due to employer size is not applicable because the employer has more than 100 employees.

Severity

The average underpayment was more than one week’s average pay for the affected employee. This means that, pursuant to Section III(A)(1) the penalty amount will be multiplied by a factor of 1.25.

History of previous violations

The employer has a history of previous violations that did not result in court action or a penalty. This means that, pursuant to Section III(A)(2) the resulting penalty will be multiplied by an additional factor of 1.5.

Repeat violations

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>.

The current violation is a “first repeat violation”. This means that, pursuant to Section III(A)(3) the resulting penalty will be multiplied by an additional factor of 2.0.

Willful violations

“A “willful” violation is committed when the employer knew or, due to experience or expertise, should have known the operative facts that made its actions a violation of the law. A ‘willful’ violation includes an employer’s intentional or reckless disregard of its obligations under the law.”

The employer knew, or should have known, that failing to pay an employee their final wages on the established pay date is a violation of the law because they were cited for violating this same statute one year earlier. This means that pursuant to Section III(A)(4) the resulting penalty will be multiplied by an additional factor of 2.0.

Therefore, to calculate the penalty amount the Division imposes for the violations in this case, the Division starts with the minimum penalty provided by the statute in question, multiplied by the severity, then multiplied by the history of previous violations, then repeat violations, and then willful violations.

Cessation of Employment

The violation for cessation of employment (Section 626) is 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 or section 626, ...is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.”³

As \$100 is the lowest amount in the range, the Chapter 9 Rules require us to use this number as our starting point for the single violation in this case. The fine is then multiplied by a factor of 1.25 due to the severity, resulting in a fine of \$125.00. The fine is then multiplied by a factor of 1.5 due to history of previous violations, resulting in a fine of \$187.50. The fine is then multiplied by a factor of 2.0 due to repeat violations, resulting in a fine of \$375. The fine is then multiplied by a factor of 2.0 due to willfulness, resulting in a fine of \$750. Since the statutory maximum cannot exceed \$500 for each violation, the penalty is reduced by \$250, resulting in a **total penalty amount of \$500.00.**

Appeals and Settlements

The total penalty for the above violation(s) is \$500.00. Please make checks payable to “Treasurer, State of Maine” and mail to the address at the top of this letter.

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

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 IV 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 Deputy Director of the Bureau, at the address listed above. 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 Deputy Director will 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) 623-7925.

Respectfully,

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

Scott Cotnoir, Director
Wage and Hour Division
Inspection #484095