



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

DIRECTOR

October 25, 2024

River Tap & Grill LLC
and
Steven Armstrong-Owner
52 Golf Course Lane
Hollis Center, Maine 04042

RE: Violations of Title 26 MRS. Inspection #489476

Dear Steven Armstrong,

When the Wage and Hour Division investigated your place of business on April 25, 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.
- 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 employer failed to pay [REDACTED] on the established dates for each of the 5 weeks listed in Table 1, below.

Table 1: Timely and Full Payment of Wages Violations

Week Ending	Established Pay Date	Hours Worked	Hours Paid	Wages paid	Total wages owed	§621-A violations
1/27/2024	2/2/2024	17	0	\$0.00	\$272.00	1
2/3/2024	2/9/2024	6	23	\$368.00	\$0.00	0
2/10/2024	2/16/2024	12	12	\$192.00	\$0.00	0
2/17/2024	2/23/2024	10	0	\$0.00	\$160.00	1
2/24/2024	3/1/2024	10	0	\$0.00	\$160.00	1
3/2/2024	3/8/2024	10	0	\$0.00	\$160.00	1
3/9/2024	3/15/2024	5	0	\$0.00	\$80.00	1
Total					\$560.00	5

The employer paid the employee \$705.00 on 05/01/2024.

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 is the only relevant criterion to the imposition of fines in this case. The employers in this case have 25 employees. This means that, pursuant to Section II (1), the penalty amount in all violations will be reduced by 15%. Pursuant to Section II (2), because the employers are being cited for multiple violations, the employers are not entitled to any further reductions.

Timely and Full Payment of Wages; Records

The violations for timely and full payment of wages (Section 621-A), for daily time records (Section 622), and for pay 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. The penalty is then reduced by 15% for employer size, resulting in a penalty amount of \$4,250.00. Since the statutory maximum cannot exceed \$500 per violation, the penalty is reduced by \$1,750, resulting in **a total penalty amount of \$2,500.00 for the 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 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 on the established pay day on 5 separate occasions between 01/27/2024 and 03/09/2024. The employers paid the employee the wages two months later on 05/01/2024. The employers owe the employee **an additional \$1,519.00 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 the liquidated damages amount in each

separate week, resulting in the total annual interest. We then divide that amount by 365 days, resulting in a total amount of daily interest. The daily interest is then multiplied by the number of days that the wages went unpaid, **the result is a total interest amount of \$15.20 owed to the worker as identified in Table 2, below.**

Table 2: Liquidated Damages and Interest

Week Ending	Established Pay Date	Total wages owed	Number of days paid late	Liquidated Damages	Interest	Total amount owed
1/27/2024	2/2/2024	\$272.00	8	*\$399.00	*\$0.69	*\$399.69
2/3/2024	2/9/2024	\$0.00	0	\$0.00	\$0.00	\$0.00
2/10/2024	2/16/2024	\$0.00	0	\$0.00	\$0.00	\$0.00
2/17/2024	2/23/2024	\$160.00	69	\$320.00	\$4.77	\$324.77
2/24/2024	3/1/2024	\$160.00	62	\$320.00	\$4.28	\$324.28
3/2/2024	3/8/2024	\$160.00	55	\$320.00	\$3.80	\$323.80
3/9/2024	3/15/2024	\$80.00	48	\$160.00	\$1.66	\$161.66
Total		\$560.00		\$1,519.00	\$15.20	\$1,534.20

**Since the employer paid \$145 more than the total wages owed on 05/01/2024, this amount was applied toward the total liquidated damages owed to the worker for week ending 01/27/2024.*

Appeals and Settlements

The total penalty for the above violation is \$2,500.00. 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 \$1,534.20. 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, 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 # 474157