



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

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WAGE & HOUR DIVISION

DIRECTOR

October 18, 2024

JRB Construction, LLC
Jason Bryant
113 Chamberlain Street
Brewer, ME 04412

RE: Violations of Title 26 MRS. Inspection #483847

Dear Jason Bryant,

When our Inspector visited your place of business on October 23, 2023 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. ...

The employer did not establish regularly recurring pay intervals in this instance. Therefore, in order to calculate the number of violations of this section, we will use the greatest period of time allowed between pay dates which is 16 days. In this case, the employer failed to pay the following employees in full at intervals not to exceed 16 days on 3 separate occasions.

In this case, the employer failed to pay [REDACTED] in full for three weeks of work between July and August 2023.

The employer failed to pay [REDACTED] in full for one week of work between July and August 2023.

Violations: 3

Records

Section 622 of Title 26 (materially) states:

Every employer shall keep a true record showing the date and amount paid to each employee pursuant to section 621-A. Every employer shall keep a daily record of the time worked by each such employee... Records required to be kept by this section must be accessible to any representative of the department at any reasonable hour. ...

Records statutes, such as Section 622, are a critical element of labor standards because records help employers ensure they have met their legal obligations to pay workers what they are owed, and they provide the Division with a source of evidence when evaluating an employer's compliance with other statutes.

In this case, the employer failed to provide the department representative access to the daily time records and payroll records for the following employees on 11/27/2023:

- ██████████ – Three weeks of work between July and August 2023.
- ██████████ – One week of work between July and August 2023.

Violations: 3

Unfair Agreements

Section 629(1) of Title 26, titled "Unfair Agreements", (materially) states:

...A person, firm or corporation may not require or permit any person as a condition of securing or retaining employment to work without monetary compensation or when having an agreement, oral, written or implied, that a part of such compensation should be returned to the person, firm or corporation for any reason other than for the payment of a loan, debt or advance made to the person, or for the payment of any merchandise purchased from the employer or for sick or accident benefits, or life or group insurance premiums, excluding compensation insurance, that an employee has agreed to pay, or for rent, light or water expense of a company-owned house or building. This section does not apply to work performed in agriculture or in or about a private home.

In this case, the employer required or allowed the following employee(s) to work without monetary compensation during the following pay cycles based on the minimum number of pay periods required in accordance with Section 621-A:

- ██████████ worked without monetary compensation for one week between July and August 2023.

Violations: 1

Record of hours worked

Subchapter 3 of Chapter 7 of Title 26 of the Maine Revised Statutes, concerning minimum wage and paid overtime, requires employers to keep a record of hours worked, wages paid, and provide pay statements to employees. This requirement is set out at Section 665 and (materially) states:

Every employer...shall keep a true and accurate record of the hours worked by each employee and of the wages paid, such records to be preserved by the employer for a period of at least 3 years, and shall furnish to each employee with each payment of wages a statement that clearly shows the date of the pay period, the hours, total earnings and itemized deductions.

In this case, the employer failed to keep true and accurate records of the hours worked on the following employees on the following dates:

██████████ worked three separate weeks between July and August 2023.

██████████ worked one week between July and August 2023.

Violations: 4

Summary of Violations

Table 1, below, sets out the total number of violations the Division has found thus far.

Table 1: Total Violations

| Statute | Number of Violations |
|--|-----------------------------|
| 26 M.R.S. § 621-A (Timely and full payment of wages) | 3 |
| 26 M.R.S. § 622 (daily time records) | 3 |
| 26 M.R.S. § 629 (unfair agreements) | 1 |
| 26 M.R.S. § 665 (record of hours worked) | 4 |
| TOTAL | 11 |

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 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%. The employers are not entitled to any further reductions because they are being cited for multiple violations of the same statute.

Timely and Full Payment of Wages; Records; and Unfair agreements

The violations for timely and full payment of wages (Section 621-A), records (Section 622), and unfair agreements (Section 629) are 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,...629 is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation."

In this case, there are 7 violations in this category. Chapter 9 Rules require us to start at \$1,000. The \$1,000 figure is multiplied by the 7 violations resulting in a penalty amount of \$7,000. The penalty is then reduced by 33% for employer size, resulting in a penalty amount of \$4,669. Since the statutory maximum cannot exceed \$500 per violation, the penalty is reduced by \$1,169, resulting in a **total penalty amount of \$3,500 for the violations in this category.**

Record of hours worked

The penalty range for record of hours worked 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." Chapter 9 Rules require us to start at \$1,000. The \$1,000 figure is multiplied by the 4 violations resulting in a penalty amount of \$4,000. The penalty is then reduced by 33% for employer size, resulting in a penalty amount of \$2,668. Since the statutory maximum cannot exceed \$200 per violation, the penalty is reduced by \$1,868, resulting in a **total penalty amount of \$800 for the violations in this category.**

Appeals and Settlements

The total penalty for the above violation(s) is \$4,300. Please make checks payable to “Treasurer, State of Maine” and mail to the address at the top of this letter.

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,



Scott Cotnoir, Director
Wage and Hour Division
Inspection #483847