



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 28, 2024

Leighton's Little Bear Den, Inc.
and
Kari Leighton, owner
40 Main St
Columbia, Falls, ME 04623

RE: Violations of Title 26 MRS. Inspection #485691

Dear Kari Leighton,

When our inspector visited your place of business on January 5, 2024 the following violations of Maine Labor Law were found:

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.

The Division counts each day on which an employer fails to "keep a daily record of the time worked by each such employee", or each instance in which the employer fails to provide such a record to the Division, as a separate violation. Similarly, the Division counts each payroll period

in which an employer fails to keep a pay record, or each instance in which the employer fails to provide the Division with such a record, as a separate violation.

In this case, the employers failed to provide the Division access to the daily time records on the following employees after numerous requests between 12/07/2023 and 02/15/2024:

[REDACTED]

Violations: 8

In addition to the daily time record violations, the employers failed to provide the Division access to the biweekly payroll records showing the date and amount paid to each of the following employees:

[REDACTED] : Unknown number of weeks worked. Minimum of 1 payroll record violation.
[REDACTED] worked 21 separate weeks. This equates to 11 payroll record violations.
[REDACTED] worked 7 separate weeks. This equates to 4 payroll record violations.
[REDACTED] : Unknown number of weeks worked. Minimum of 1 payroll record violation.
[REDACTED] worked 1 week. This equates to 1 payroll record violation.
[REDACTED] : Unknown number of weeks worked. Minimum of 1 payroll record violation.
[REDACTED] worked 7 separate weeks. This equates to 4 payroll record violations.
[REDACTED] worked 30 separate weeks. This equates to 15 payroll record violations.
[REDACTED] worked 14 separate weeks. This equates to 7 payroll record violations.
[REDACTED] Unknown number of weeks worked. Minimum of 1 payroll record violation.
[REDACTED] Unknown number of weeks worked. Minimum of 1 payroll record violation.
[REDACTED] Unknown number of weeks worked. Minimum of 1 payroll record violation.
[REDACTED] Unknown number of weeks worked. Minimum of 1 payroll record violation.
[REDACTED] Unknown number of weeks worked. Minimum of 1 payroll record violation.
[REDACTED] worked 7 separate weeks. This equates to 4 payroll record violations.
[REDACTED] worked 25 separate weeks. This equates to 13 payroll record violations.

Violations: 67

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. 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 have less than 25 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 eligible for any addition reductions.

Records

The penalty for records violations (Section 622) 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...is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation."

In this case, there are 75 violations identified. Chapter 9 Rules require us to start at \$1,000. The \$1,000 figure is multiplied by the 75 violations, resulting in a penalty amount of \$75,000. This amount is then reduced by 33% for employer size, resulting in a penalty amount of \$50,025. Since the maximum penalty for a single violation cannot exceed \$500, **the total penalty amount is reduced to \$37,500.**

Appeals and Settlements

The total penalty for the above violation is \$37,500. 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 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 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,

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 #485691