



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

DR. JASON MOYER-LEE
DIRECTOR

February 1, 2024

Jimmi T. Brown
and
Riverside Grill, Inc.
1016 South Street
Dover-Foxcroft, ME 04426

602 Bowerbank Road
Bowerbank, ME 04426

RE: Violations of Title 26 MRS. Inspection #483452

Dear Jimmi T. Brown,

When our Inspector visited your place of business on 08/29/2023 and followed up by phone and email at points thereafter, the following violations of Maine Labor Law were found:

26 MRS §621-A Timely and Full Payment of Wages requires that employees be paid in full, on an established day or date, at regular intervals made known to the employee. The intervals may not exceed 16 days and must include all wages earned to within 8 days of the payment date.

In this case, the employer failed to pay the following employees in full on the established pay date of 08/18/2023:

[REDACTED]

9 violations

26 MRS §622 Records requires that employers 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 unless the employee is paid a salary that is fixed without regard for the number of hours worked. Records required to be kept by this section must be accessible to any representative of the department at any reasonable hour.

In this case, the employer failed to keep a true daily record of the time worked for the following employees:

[REDACTED] on 08/12/2023. The record provided by the employer shows the start time only. The system automatically logged her out at 4:00AM on 08/13/2023. **1 violation**

██████████ on 08/09/2023. The record provided by the employer shows the start time only. The system automatically logged him out at 3:59AM on 08/10/2023. **1 violation**

The employer failed to provide access to the daily time records for the following employees for the week ending 08/13/2023:

██████████ paid 4.02 hours. No time record provided. **1 violation**
██████████ paid 37.98 hours. No time record provided. **2 violations**
██████████ paid 12.31 hours. No time record provided. **1 violation**
██████████ paid 13.15 hours. No time record provided. **1 violation**

The employer failed to provide access to the daily time records on the following employees for the week ending 08/20/2023:

██████████ **1 violation**
██████████ **3 violations**
██████████ **2 violations**
██████████ **1 violation**
██████████ **2 violations**
██████████ **2 violations**
██████████ **2 violations**
██████████ **2 violation**
██████████ **1 violation**
██████████ **1 violation**
██████████ **1 violation**
██████████ **2 violations**
██████████ **2 violations**
██████████ **1 violation**
██████████ **2 violations**
██████████ **2 violations**

34 violations

§629. Unfair agreements (1) Work without compensation; return of compensation. 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 permitted the following employees to work without monetary compensation for work performed during the week ending 08/13/2023:

██████████ 17.05 hours
██████████ 16.14 hours

11.58 hours
.62 hours
7.92 hours
8.37 hours
3.26 hours
.91 hours
2.68 hours

9 violations

§53 MRS Additional penalties In addition to any penalties provided in chapter 7, subchapters I to IV, the 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 Attorney General, upon complaint of the director, shall institute a civil action to recover the forfeiture. Any amount recovered must be deposited with the Treasurer of State. 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.

BLS Rules, Chapter 9, Rules Governing Administrative Civil Money Penalties for Labor Law Violations, sections II and III defines terms and how penalties are calculated respectively, including multipliers.

26 MRS §626-A PENALTIES - Whoever violates any of the provisions of sections 621-A to 623 or section 626, 628, 628-A, 629 or 629-B is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation. Each employee is counted as a separate violation, each pay cycle.

9 violations of §621-A x \$100.00 = \$900.00 x .850 multiplier for employer size = \$765.00
34 violations of §622 x \$100.00 = \$3,400.00 x .850 multiplier for employer size = \$2,890.00
9 violations of §629 x \$100.00 = \$900.00 x .850 multiplier for employer size = \$765.00

26 MRS §664(1) Minimum wage Except as otherwise provided in this subchapter, an employer may not employ any employee at a rate less than the rates required by this section. The minimum wage in Maine in 2023 was \$13.80 per hour.

In this case, the employer failed to pay [REDACTED] and [REDACTED] at least minimum wage during the week ending 08/13/2023.

2 violations

26 MRS §664(3) Overtime Rate requires that employees be paid time-and-one-half their regular hourly rate for all hours worked in excess of 40 hours per week.

In this case, [REDACTED] was not paid time-and-one-half her hourly rate for all hours worked in excess of 40 for the week ending 08/13/2023. **1 violation**

26 MRS §671 PENALTIES - 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 the event of the violation of any of the provisions of this subchapter, the Attorney General may institute injunction proceedings in the Superior Court to enjoin further violation thereof.

2 violations of §664(1) x \$50.00 = \$100.00 x .850 multiplier for employer size = \$85.00

1 violation of §664(3) = \$50.00 x .850 multiplier for employer size = \$42.50

26 MRS §774(2) Restricted Hours - Minors Under 16 years of Age A minor under 16 years of age may not be employed as follows:

A. More than 40 hours in any given week when school is not in session;

B. More than 18 hours in any week when school is in session;

C. More than 8 hours in any day when school is not in session;

D. More than 3 hours in any day when school is in session;

E. More than 6 consecutive days; or

F. Between the hours of 7 p.m. and 7 a.m. except during summer vacation, when that minor may not work between the hours of 9 p.m. and 7 a.m.

In this case, the employer allowed a 15-year-old minor, [REDACTED] to work in violation of subsection C on 08/06/2023 (10.08 hours). **1 violation**

The employer allowed a 12-year-old minor to work in violation of subsection F on 4 separate days from 08/02/2023 through 08/05/2023 (9:30PM each night). **4 violations**

26 MRS §774(7) Record of work hours of minors. Every employer shall keep a time book or record for every minor employed in any occupation, except household work or the planting, cultivating or harvesting of field crops or other agricultural employment not in direct contact with hazardous machinery or hazardous substances, stating the number of hours worked by each minor on each day of the week. The time book or record must be open at all reasonable hours to the inspection of the director, a deputy of the director or any authorized agent of the bureau. An employer who fails to keep the time book or record required by this subsection or who makes any false entry to the time book or record, refuses to exhibit the time book or record or makes any false statement to the director, a deputy of the director or any authorized agent of the bureau in reply to any question in carrying out this section is liable for a violation of this section and is subject to penalties specified in section 781.

In this case, the employer failed to keep a daily time record for a 12-year-old minor that worked on 4 separate days from 08/02/2023 through 08/05/2023. **4 violations**

26 MRS §781 PENALTIES - An employer who employs, permits or suffers any minor to be employed or to work in violation of this article or Title 20-A, section 5054 is subject to the following forfeiture or civil penalty, payable to the State and recoverable in a civil action:

A. For the first violation or a violation not subject to an enhanced sanction under paragraph B or C, a forfeiture or penalty of not less than \$250 nor more than \$5,000;

B. For a 2nd violation occurring within 3 years of a prior adjudication, a forfeiture or penalty of not less than \$500 nor more than \$5,000; or

C. For a 3rd and subsequent violation occurring within 3 years of 2 or more prior adjudications, a penalty of not less than \$2,000 nor more than \$10,000.

5 violations of §774(2) x \$250.00 = \$1,250.00 x .850 multiplier for employer size = \$1,062.50
4 violations of §774(7) x \$250.00 = \$1,000.00 x .850 multiplier for employer size = \$850.00

The total penalty for the above violation(s) is \$6,460.00.

Make checks payable to “Treasurer, State of Maine”.

You may file a formal appeal of any violation or penalty 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 what violation(s) or penalty you wish to appeal. If a request for a formal appeal is received timely, a hearing will be scheduled. The Deputy Director will serve as the hearing officer or may 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 Deputy Director. 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. Checks should be made payable to **“Treasurer, State of Maine” and mailed to the address at the top of this citation.**

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 #483452