



DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
45 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0045

LAURA A. FORTMAN
COMMISSIONER

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GOVERNOR

WAGE & HOUR DIVISION

MICHAEL ROLAND
DIRECTOR

July 12, 2021

Taco Shack, LLC
Attn: Nathan Reardon
28 Research Drive
Skowhegan, ME 04976

2213 Western Ave. Newburgh, ME 04444
54 Perry Road Bangor, ME 04401
95 Center Street Bangor, ME 04401

RE: Violations of Title 26, Inspection #456140
Certified Mail: 7015 1520 0001 0962 8997

Dear Nathan Reardon,

When our Inspector, Steven Spencer, visited your place of business on June 16, 2021 the following violations of Maine Labor Law were found:

26 MRS §621-A (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. Each payment must include all wages earned to within 8 days of the payment date.

In this case, the following violations occurred:

- *The employer established a biweekly pay cycle with Friday designated as the pay day. However, the employer's pay cycle does not comply with this statute because each payment of wages does not include all wages earned to within 8 days of the payment date. The pay period of 03/29/21 through 04/11/21 was not paid until 04/30/21, which is a total of 19 days after the end of the pay cycle. In order to be in compliance with this statute, the wages should have been paid no later than Friday, April 16th. (99 separate pay cycles identified for 42 employees)*
- *The employer failed to pay [REDACTED] in-full for work performed between 03/29/2021 and 04/11/21.*
- *The employer failed to pay [REDACTED] for work performed between 04/23/21 and 05/18/21.*
- *The employer failed to pay [REDACTED] for work performed between 04/26/21 and 04/30/21.*

26 MRS §621-A (5) Change in Rate of Pay requires the payment of wages or salary at the rate previously established by the employer, except that the employer may decrease the rate of pay, effective the next working day, if the employer gives notice to all affected employees prior to the change.

In this case, the employer lowered [REDACTED] rate of pay without advance notice for the payment of wages she received on 04/30/21.

26 MRS §622 Records requires that employers keep a true record showing the date and amount paid to each employee. 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.

In this case, the employer failed to provide payroll records in accordance with this statute. The time records that were provided identify 42 separate employees with a total of 99 pay cycles.

26 MRS §626-A PENALTIES Whoever violates any of the provisions of sections 621-A to 623 or section 626, 628, 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.

- 102 Violations of §621-A (1)
- 1 Violation of §621-A (5)
- 99 Violations of §622

26 MRS §665 (1) Pay Statement requires that employers provide to the employee with each payment of wages a statement which clearly shows the date of the pay period, hours worked, total earnings and itemized deductions.

In this case, the pay statement provided to employees on 04/16/21 does not comply with this statute because it does not identify the date of the pay period or the hours worked. (15 employees worked during this pay cycle)

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.

- 15 Violations of §665

26 MRS §53 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 total penalty for the above violation(s) is \$41,900.00.

Make checks payable to the “Treasurer, State of Maine” (The demand for payment does not apply to Nathan Reardon individually, who is presently under the protection of a bankruptcy automatic stay).

The violations identified above will become a final order within fifteen (15) business days from the day it was received unless you request a penalty discussion or file an appeal (see employer options) within the specified time frame listed above.

Employer options (within 15 business days):

If you intend to correct all violations identified and wish to work with the Wage & Hour Division to possibly reduce the penalty amount, you may request a “Penalty Discussion”. This discussion will pertain only to the penalty(s) and not the violation(s). All proposed penalties will be stayed until after the penalty discussion.

Or

You may file a formal appeal of any violation or penalty within fifteen (15) days of receipt of this citation. Please be specific as to what violation(s) or penalty you wish to appeal. If a request for a formal appeal is received, the Director will set a time and date for a “hearing”. The Director will serve as the hearing officer or may assign the appeal to the Administrative Hearings Division within the Department of Labor. The hearing will be at the headquarters of the Bureau or at a place mutually agreeable to the parties. All proposed penalties will be stayed until after the formal appeal is heard.

As the employer, you must respond in writing to the Director of the Bureau, at the address above, within fifteen (15) business days of receipt of this report stating what option you intend to choose. If no response is received within that time frame you accept all citations and any penalties assessed. The citation will become a final order. Payment will be due at that time, made payable to **“Treasurer, State of Maine” and mailed to the address at the top of this citation. (The demand for payment does not apply to Nathan Reardon individually, who is presently under the protection of a bankruptcy automatic stay)**. 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.

If you have questions regarding this citation, you may contact the Bureau of Labor Standards, Wage & Hour Division at (207) 623-7900.

Dates to remember:

Respond in writing, to the Director of the Bureau within fifteen (15) business days of receipt of this citation indicating what option you choose.

Respectfully,



Scott Cotnoir, Director
Wage and Hour Division
Inspection # 456140