

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

LOIS PALMER CLAIMANT

CASE NO. 2016-0002

CYNTHIA ROUGEAU/STATE FARM INSURANCE RESPONDENT

This matter came before the Arkansas Department of Labor on Wednesday, July 17, 2013. Lois Palmer. Claimant has appealed an agency order that she was not due wages commission wages from Cynthia Rougeau/State Farn Insurance. Palmer appeared by telephone on her own behalf. Cynthia Rougeau/State Farm Insurance appeared by telephone with Darrel Whitson on her behalf.

#### FINDINGS OF FACT

The Claimant was employed by Cynthia Rougeau/State Farm Insurance as a sales associate. Ms. Palmer testified that she left her position with the company September 10, 2015 and the employer had failed to pay final commissions on policies sold.

Ms. Palmer confirmed the commission agreement and that there are three commissioned sales of insurance policies in question. Additionally, the claimant requested wages for accrued paid time off (PTO). Cynthia Rougeau and Darrel Whitson stated that two of the policies were not issued for commissions to be paid. The third policy was a duplicate entry previously paid. Additionally, Cynthia Rougeau stated that PTO was not subject to being paid upon termination of employment and the employee must be employed in good standing at the end of each month to be eligible for commissions. Ms. Palmers testimony was that she resigned September 10, 2015. Claimant and Employer referred to documentation submitted during the claim and hearing process.

## CONCLUSIONS OF LAW

1. Upon application of either an employer or employee, the Director of the Department of Labor or any person authorized by the director shall have authority to inquire into, hear, and decide disputes arising from wages earned and shall allow or reject any deduction from wages. Ark. Code Ann. 114-303(a).

2. The amount of the award of the director shall be presumed to be the amount of wages, if any, due and unpaid to the employee. Ark. Code Ann. 11-4-303(c).

3. The employee, Lois Palmer, has the burden of proof in this case. Testimony and evidence included in the case file indicate that Ms. Palmer was paid an hourly rate of \$14.00 plus commissions based on the type of policy written. Ms. Palmer through her testimony and documentation, failed to provide evidence to support that she is due commissions and PTO at end of employment. The evidence in

this case clearly shows that Ms. Palmer was not eligible for policies written but not issued and the policy which had previously been paid. Additionally, Ms. Palmer was not employed at the end of the month when commissions are to be calculated and finalized. Finally, the employer policy states that employees must use paid time off while employed.

4. THEREFORE, IT IS CONSIDERED AND ORDERED that judgment is entered for the Employer that \$0.00 is due

IT IS SO ORDERED.

Leon Jones, Jr.

Director nab"

BY:

Skinner,

Hearing Officer

Arkansas Department of Labor

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