

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

JORGE AQUILLION

CLAIMANT

vs.

CASE NO. 2010-0019

BUCY SALES AND SERVICE

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, May 11, 2010. Bucy Sales and Services, LLC has appealed an agency order that one thousand two hundred dollars (\$1,200.00) in unpaid wages were owed to Jorge Aquillion by Bucy Sales and Service. Fred Bucy appeared on behalf of Bucy Sales and Service. Jorge Aquillion did not appear.

FINDINGS OF FACT

Aquillion filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on November 6, 2009. He claimed one thousand five hundred dollars (\$1,500.00) in unpaid wages earned between October 2 and October 22, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on January 21, 2010, finding that Aquillion was owed one thousand two hundred dollars (\$1,200.00). Bucy filed an appeal of this finding on January 28, 2010.

The hearing was set for 11:00 a.m. The hearing convened at approximately 11:10 a.m. The Respondent appeared, and the Claimant, appeared not. Therefore, judgment is entered for the Respondent.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams, Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

DEBORAH BLACKMON

CLAIMANT

Vs.

CASE NO. 2010-0003

**TINY TOTS I CHILD DEVELOPMENT,
DANKKEETA FARRIS**

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Thursday, January 28, 2010. Deborah Blackmon, the Claimant, has appealed an agency finding that she is not entitled to recover wages she claimed in Wage Claim Form. Ms. Blackmon appeared on her own behalf. She was accompanied at the hearing by James Adams, another former employee of the Respondent. Dankeeta Farris, owner of Tiny Tots I Child Development appeared on behalf of herself and the business.

FINDINGS OF FACT

Deborah Blackmon, employee, filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on August 19, 2009. She claimed three hundred ninety-three (\$393.00) for unpaid wages for fifty-six hours she worked between June 19, 2009 and July 3, 2009. The Labor Standards Division, after an investigation, issued a Preliminary Wage Determination Order on October 12, 2009 finding that Ms. Blackmon was owed three-hundred ninety-three dollars (\$393.00). On November 12, 2009, after receiving additional information concerning the claim, the Labor Standards Division amended its findings and issued a second and final Preliminary Wage Determination Order denying the claim in full. Ms. Blackmon filed an appeal of the preliminary decision on November 17, 2009.

Ms. Blackmon's testimony was that she was claiming unpaid wages earned from work she performed from June 19, 2009 through July 3, 2009, and that she was normally paid \$7.00/hour. She introduced Claimant's Exhibit # 1, a check for \$361.00 dated July 1, 2009 payable to Deborah Blackmon and bearing the logo of Tiny Tots 1 Child Development. Ms. Blackmon testified that the check was a payroll check, and that she was not able to negotiate it because the respondent stopped payment on the check. According to Ms. Blackmon, she was normally paid by checks that looked different and that were on a different account than the July 1, 2009 check for \$361.00. Ms. Blackmon stated her last day at work was June 19, 2009, after which time she went to visit in the State of Georgia. According to Ms. Blackmon, the business had been closed down and never re-opened after Ms. Blackmon returned to Arkansas. Ms. Blackmon testified that after June 19, 2009, the next time she saw Ms. Farris was when the parties appeared at the offices of the Arkansas Department of Labor for this wage claim.

Dankeeta Farris, testifying on behalf of respondent Tiny Tots and on her own behalf stated that Tiny Tots was operated as a sole proprietorship, that Ms. Blackmon had worked at Tiny Tots, and that she paid Ms. Blackmon \$7.00/hour. According to Ms. Farris, Ms. Blackmon was not present on June 19, 2009 when Ms. Farris terminated several employees, including Ms. Blackmon, and that Ms. Blackmon had already been paid for work performed prior to that date. Ms. Farris testified that the \$361.00 check to the claimant on which Ms. Farris had stopped payment had been stolen from Ms. Farris and reported as stolen to the police. Ms. Farris denied that she wrote the check and that the check was intended as payment for work performed by Ms. Blackmon after June 19, 2009.

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. 11-4-303(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. 1-4-303(c).

3. The employee, Deborah Blackmon did not meet her burden of proving that she worked 56 hours between the dates June 19, 2009 and July 3, 2009. She testified that her last day ever being at Tiny Tots 1 Child Development was June 19, 2009 and that she never saw or spoke to the employer after that time. Ms. Blackmon is not entitled to recover any amount from the respondent as unpaid wages.

THEREFORE, IT IS CONSIDERED AND ORDERD that judgment is entered for the Respondent and the claim is hereby dismissed.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams
Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

JEFFERY TODD BLEVINS

CLAIMANT

Vs.

CASE NO.: 2010-0001

SCOOTER'S AUTO PARTS

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, February 2, 2010. Scooter's Auto Parts appeared through its owner, Scott Floyd. Jeffery Todd Blevins appeared on his own behalf.

FINDINGS OF FACT

The Claimant, Jeffrey Todd Blevins, filed his Wage Claim on September 2, 2009, claiming \$620.00 in wages and commissions earned between April 27, 2009 and May 1, 2009. The Labor Standards Division of the Arkansas Department of Labor determined that Scooter's Auto Parts is entitled to an offset of any unpaid wages Mr. Blevins had earned and that Mr. Blevins was owed \$125.00 by the Respondent. Mr. Blevins appealed the October 27, 2009 Findings and Conclusions and requested a hearing on his claim.

At the January 28, 2009 hearing, Mr. Blevins testified that he was employed at the rate of \$10.00/hour, and that he earned a total of 1% of his gross sales. Mr. Blevins claims he worked 24 hours between April 27, 2009 and May 1, 2009 and that he was never paid for that time period. Mr. Blevins also acknowledged that he owed \$283.71 to Scooter's Auto Parts for purchases Mr. Blevins made from the stores inventory.

Consistent with Mr. Blevins' own testimony, Scott Floyd testified on behalf of Scooter's Auto Parts that the Claimant was paid \$10.00/hour. Mr. Floyd admitted that the Claimant had not been paid for his last 20 hours of work, but claims that it is the Claimant's own fault. Mr. Floyd

referred to Respondent's Exhibits 1 and 2, check number 4458 for \$181.94 (wages) and check number 4459 for \$183.81 (commission), both dated June 5, 2009. According to Mr. Floyd, Mr. Floyd contacted the Respondent by telephone on more than one occasion and advised him to come and pick up his last checks. Mr. Floyd stated that Mr. Blevins still owes the Respondent \$305.79 for purchases Mr. Blevins made on credit from the inventory of Scooter's Auto Parts. Mr. Blevins testified that he had also mailed a check for \$125.00 to the Labor Standards Division as final payment to Mr. Blevins after he had provided proof of the amounts that Scooter's Auto Parts was owed. Mr. Blevins did not dispute the Labor Standard's Division's calculation of the offset against Mr. Blevins account at the minimum wage rate of \$6.25/hour instead of the \$10.00/hour the Claimant was normally paid. Mr. Floyd also agreed to waive the service charges on Mr. Blevins credit account.

CONCLUSIONS OF LAW

1. Under the provisions of *Arkansas Code Annotated 11-4-303(a)*, the Director of the Department of Labor or any person authorized by the director shall have the authority to inquire into, hear and decide the amount of wages earned by the employee, and shall allow or reject any deduction from wages claimed by the employer, when a request is made by either party to a wage claim dispute.
2. After final hearing by the director or his designee, a copy of findings of facts and any award made shall be filed in the office of the Department of Labor. *Arkansas Code Annotated 11-4-303(b)*.
3. The amount of any award determined by the director shall be presumed to be the amount of wages, if any, due and unpaid to the employee. *Arkansas Code Annotated 11-4-303(c)*.

4. The wage claimant carries the burden of proving any claim of unpaid wages.
5. In the present case, the claimant's request for unpaid wages is based on a pay rate of \$10.00/hour, and not the \$400/week salary he claimed in his Wage Claim. He presented no evidence that would provide any type of basis for calculating any commission he may have been due. Based on his claim that he worked 24 hours from April 27, 2009 and May 1, 2009, he was owed two-hundred forty dollars (\$240.00) when he was terminated from his employment.
6. The employer, on the other hand has presented credible account records showing that the Claimant owed Respondent \$283.71, for purchases Mr. Blevins made on credit from the inventory of Scooter's Auto Parts, which has not been rebutted by the Claimant. Scooter's Auto Parts is entitled to offset \$283.71 at the minimum wage rate of \$6.25 against the \$240.00 wages the Claimant never received.
7. After giving the Respondent a credit of \$150.00 against the outstanding wages owed, Claimant is entitled to recover \$80.00 in unpaid wages plus the commission of \$183.81 that was calculated by Mr. Floyd.

THEREFORE, IT IS CONSIDERED AND ORDERD that judgment is entered for the Claimant in the amount of \$263.81.

The Respondent is directed to issue a check payable to Mr. Blevins in the amount of eighty dollars (\$263.81) within ten (10) days of the receipt of this Order and mailed to the Department of Labor.

James E. Salkeld
Director of Labor

BY: _____
Danny R. Williams, Administrative Law Judge
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

DAVID BROWN

vs.

CASE NO. 2010-0002

CURTSINGER MOBILE HOME SET-UP

ORDER

This matter comes for hearing on this Thursday, January 28, 2010 at the offices of the Arkansas Department of Labor. The hearing was set for 8:30 a.m. The hearing convened at approximately 8:35 a.m. Neither party has appeared for the hearing. The Claimant in this matter carries the burden of proof and his appearance is necessary to prevail.

THEREFORE, this matter is hereby dismissed without prejudice; however refilling will only be accepted under proof of good cause.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams
Administrative Law Judge

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

JAMIE BROWNING

vs.

CASE NO. 2009-0031

PIT STOP DINER

ORDER

On the 22nd day of December, 2009, the verbal request of the Claimant made on Monday, December 21, 2009 to dismiss her case was considered. The Claimant in this matter carries the burden of proof. Her will to pursue this matter, as well as her appearance, is necessary to prevail. As the Claimant has voiced her request for her case to be dismissed, the request shall be granted.

THEREFORE, this matter is hereby dismissed without prejudice.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams
Administrative Law Judge

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

MIKE CALEY

CLAIMANT

vs.

CASE NO. 2010-0005

SPOTLESS MOBILE PRESSURE WASHING

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, February 2, 2010. Spotless Mobile Pressure Washing has appealed any agency order that three hundred sixty-two dollars and fifty cents (\$362.50) in unpaid wages is owed to Mike Caley. Caley appeared on his own behalf. Spotless Mobile Pressure Washing did not appear.

FINDINGS OF FACT

Caley filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on September 21, 2009. He claimed three hundred sixty-two dollars and twenty-five cents (\$362.25) in unpaid wages earned between July 15, 2009 and August 15, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on October 27, 2009, finding that Caley was owed three hundred sixty-two dollars and fifty cents (\$362.50). Spotless Mobile Pressure Washing filed an appeal of this finding on November 10, 2009.

The hearing was set for 8:30 a.m. The hearing convened at approximately 8:50 a.m. The Claimant appeared, and the Respondent, appeared not. Therefore, judgment is entered for the Claimant in the amount of three hundred sixty-two dollars and fifty cents (\$362.50). The Respondent is directed to issue a check payable to Mr. Caley in the amount of three hundred sixty-two dollars and fifty cents (\$362.50) within ten (10) days of the receipt of this Order and mailed to the Department of Labor.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams, Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

ZACH CALEY

CLAIMANT

vs.

CASE NO. 2010-0006

SPOTLESS MOBILE PRESSURE WASHING

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, February 2, 2010. Spotless Mobile Pressure Washing has appealed any agency order that fifty one dollars (\$51.00) in unpaid wages is owed to Zach Caley. Caley, a minor, appeared along with his father, who is his legal guardian, and grandfather. Spotless Mobile Pressure Washing did not appear.

FINDINGS OF FACT

Caley filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on September 21, 2009. He claimed three hundred sixty-two dollars and twenty-five cents (\$362.25) in unpaid wages earned on August 13, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on October 27, 2009, finding that Caley was owed fifty one dollars (\$51.00). Spotless Mobile Pressure Washing filed an appeal of this finding on November 10, 2009.

The hearing was set for 9:30 a.m. The hearing convened at approximately 9:30 a.m. The Claimant appeared, and the Respondent, appeared not. Therefore, judgment is entered for the Claimant in the amount of fifty one dollars (\$51.00). The Respondent is directed to issue a check payable to Mr. Caley in the amount of fifty one dollars (\$51.00) within ten (10) days of the receipt of this Order and mailed to the Department of Labor.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams, Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

CASSANDRA McCOY

CLAIMANT

Vs.

CASE NO. 2010-0004

**TINY TOTS I CHILD DEVELOPMENT,
DANKKEETA FARRIS**

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Thursday, January 28, 2010. Cassandra McCoy, the claimant has appealed an agency finding that she is not entitled to recover wages she claimed. Ms. Blackmon appeared on her own behalf. Dankeeta Farris, owner of Tiny Tots I Child Development appeared on behalf of herself and the business.

FINDINGS OF FACT

Ms. McCoy filed her wage claim with the Labor Standards Division of the Arkansas Department of Labor on August 19, 2009. She claimed three hundred ninety-three (\$392.00) for unpaid wages for fifty-six (56) hours she worked between June 22, 2009 and July 3, 2009. The Labor Standards Division, after an investigation, issued a Preliminary Wage Determination Order on October 15, 2009 finding that Ms. Blackmon was owed three-hundred ninety-three dollars (\$392.00). On November 12, 2009, after receiving additional information concerning the claim, the Labor Standards Division amended its findings and issued a second and final Preliminary Wage Determination Order denying the claim in full. Ms. McCoy filed an appeal of the preliminary decision on November 17, 2009.

Ms. McCoy's testimony was that she was never paid for work she performed from June 22, 2009 through July 3, 2009, and that she was normally paid \$7.00/hour. She introduced Claimant's Exhibit # 1, a check for \$500.00 dated June 30, 2009 payable to Cassandra McCoy and bearing the logo of Tiny Tots 1 Child Development. Ms. McCoy testified that the check was

a payroll check, and that, although she negotiated the check at Advanced Check Cashers and received cash in return, she is being “pursued” by Advance Check Cashers for reimbursement due to the fact that the respondent later stopped payment. Ms. McCoy testified that she is owed \$977.00 for work she did on both the day shift and the night shift at Tiny Tots. She claimed she was handed the \$500.00 check for her dayshift work by Dankeeta Farris, the owner of the business on June 19, 2009 when Ms. Farris terminated all the business’ employees, and that Ms. Farris had agreed to send Ms. McCoy a separate check in the mail for her night shift work.

Dankeeta Farris, testifying on behalf of respondent Tiny Tots, and on her own behalf, admitted that the Claimant had worked at Tiny Tots, and that she paid Ms. McCoy \$7.00/hour. According to Ms. Farris, Tiny Tots had already paid Ms. McCoy for any night shift work Ms. McCoy performed before June 19, 2009. Ms. Farris also testified she (Ms. Farris) had stopped payment on the \$500.00 check to Ms. McCoy because checks had been stolen from the Tiny Tots facility and the \$500.00 check was among the ones that Ms. Farris had reported as stolen to the police. Ms. Farris denied that she wrote the check and further denied that the check was intended as payment for work performed by Ms. McCoy after June 19, 2009. Ms. Farris stated she had been contacted by Advance Check Cashers regarding the check, and that she had provided a “stolen check” affidavit regarding her stop payment order on the check.

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. 11-4-303(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. 1-4-303(c).
3. The employee, Cassandra Ms. McCoy admitted that she successfully cashed a check for \$500.00 from Tiny Tots, which she claims was her paycheck, after she was terminated from the business.
4. The amount of the check Ms. McCoy cashed is not consistent with the amounts Ms. McCoy testified she normally would have been paid by Tiny Tots, and exceeds the amount of her wage claim.
5. McCoy did not meet her burden of proving that she has not been paid for fifty-six (56) hours she worked between the dates June 22, 2009 and July 3, 2009.

THEREFORE, IT IS CONSIDERED AND ORDERED that judgment is entered for the Respondent and the claim is hereby dismissed.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams
Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: February 2, 2010

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

DEBORAH DAVIDSON

CLAIMANT

Vs.

CASE NO. 2010-0010

WESTERN SIZZLIN

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Thursday, January 28, 2010. Western Sizzlin, the Respondent, has appealed an agency finding in favor of the Claimant for unpaid wages in the amount of two hundred seventy-eight dollars and fifty-seven cents \$278.57. Western Sizzlin appeared through its owner, Rick Caudel. The Claimant, Deborah Lane Davidson appeared on her own behalf.

FINDINGS OF FACT

Ms. Davidson filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on September 3, 2009, in which she claimed she worked at the Respondent restaurant for six (6) months and that she was terminated in August 2009. She stated in her claim that she was paid a salary of six hundred fifty dollars (\$650.00) per week for a 5-day work week, and that she was not paid for the last four days she worked. The Labor Standards Division, after an investigation, issued a Preliminary Wage Determination Order on November 24, 2009 finding that Ms. Davidson was owed (\$169.70). The Respondent filed an appeal of the preliminary decision on November 30, 2009.

Ms. Davidson's testimony at the hearing was that she was not paid for the last four days she worked at the Respondent restaurant, and that she received a check for two hundred seventy-eight dollars and fifty-seven cents (\$278.57). Rick Caudel, on behalf of the Respondent testified consistently with the Claimant that Ms. Davidson was normally paid six hundred fifty dollars

(\$650.00) as a weekly salary for a five-day work week. It is undisputed that Ms. Davidson's last pay check was for the sum of two hundred seventy-eight dollars and fifty-seven cents (\$287.57), and that that sum was calculated by dividing Ms. Davidson's normal weekly salary by seven days instead of the five-day work week Ms. Davidson was normally paid for.

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. 11-4-303(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. 1-4-303(c).
3. The employee, Deborah Davidson carried her burden of proving that she was at work for four days in August 2009 for which she did not receive her regular salary of six hundred fifty (\$650.00) per week for a five-day work week. Ms. Davidson was not an hourly employee, and therefore must be paid for the four days she was actually at work.
4. The employer is entitled to credit for the two hundred seventy eight dollars and fifty-seven cents (\$278.57) it already paid Ms. Davidson leaving a balance of two-hundred forty one dollars and forty three cents (\$241.43).

THEREFORE, IT IS CONSIDERED AND ORDERD that judgment is entered for the Claimant in the amount of two-hundred forty one dollars and forty three cents (\$241.43)

The Respondent is directed to issue a check payable to Ms. Davidson in the amount of two-hundred forty one dollars and forty three cents (\$241.43) within ten (10) days of the receipt of this Order and mailed to the Department of Labor.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams
Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: March 9, 2010

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

RAYMOND GALLACHER

CLAIMANT

vs.

CASE NO. 2010-0014

MID SOUTH RENTALS

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, March 2, 2010. Mid South Rentals has appealed an agency order that four hundred twenty-seven dollars (\$427.00) in unpaid wages is owed to Raymond Gallacher. Gallacher appeared on his own behalf. Mid South Rentals did not appear.

FINDINGS OF FACT

Gallacher filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on October 21, 2009. He claimed four hundred twenty-seven dollars (\$427.00) in unpaid wages earned between June 29, 2009 and July 28, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on December 22, 2009, finding that Gallacher was owed four hundred twenty-seven dollars (\$427.00). Mid South Rentals filed an appeal of this finding on January 6, 2010.

The hearing was set for 10:00 a.m. The hearing convened at approximately 10:40 a.m. The Claimant appeared, and the Respondent, appeared not. Therefore, judgment is entered for the Claimant in the amount of four hundred twenty-seven dollars (\$427.00). The Respondent is directed to issue a check payable to Mr. Gallacher in the amount of four hundred twenty-seven dollars (\$427.00) within ten (10) days of the receipt of this Order and mailed to the Department of Labor.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams, Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

JUAN GARCIA

CLAIMANT

vs.

CASE NO. 2010-0021

MCINTYRE PROPERTIES

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Thursday, May 13, 2010. McIntyre Properties has appealed an agency order that one hundred eighty dollars (\$180.00) in unpaid wages were owed to Juan Garcia. Joseph McIntyre appeared on behalf of McIntyre Properties. Juan Garcia did not appear.

FINDINGS OF FACT

Garcia filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on November 6, 2009. He claimed one hundred eighty dollars (\$180.00) in unpaid wages earned between November 7 and November 9, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on February 12, 2010, finding that Garcia was owed one hundred eighty dollars (\$180.00). McIntyre filed an appeal of this finding on February 26, 2010.

The hearing was set for 10:00 a.m. The hearing convened at approximately 11:00 a.m. The Respondent appeared, and the Claimant, appeared not. Therefore, judgment is entered for the Respondent.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams, Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

KRISTINA GULLEY

CLAIMANT

vs.

CASE NO. 2010-0011

METHODIST FAMILY MENTAL HEALTH

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, February 2, 2010. Kristina Gulley has appealed an agency order that no wages are owed to her. Gulley did not appear. Methodist Family Mental Health appeared and was represented by the Honorable Dylan Potts.

FINDINGS OF FACT

Gulley filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on October 5, 2009. She claimed one thousand one hundred ninety-four dollars and fifty-three cents (\$1,194.53) in unpaid time off after her separation from the employer. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on November 25, 2009, finding that Gulley was owed no wages. Gulley filed an appeal of this finding on December 8, 2009.

The hearing was set for 2:00 p.m. The hearing convened at approximately 2:10 p.m. The Respondent appeared, the Claimant appeared not. Therefore, judgment is entered for the Respondent.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
DANNY R. WILLIAMS
ADMINISTRATIVE LAW JUDGE
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

MANDRICK HOLMES

CLAIMANT

vs.

CASE NO. 2010-0012

MILLBRITE

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, March 2, 2010. Millbrite has appealed an agency order that nine hundred seventy-three dollars (\$973.00) in unpaid wages is owed to Mandrick Holmes. Holmes did not appear. Jimmy Hobbs appeared in person on behalf of Millbrite.

FINDINGS OF FACT

Holmes filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on October 16, 2009. He claimed sixty-eight and one-half hours of unpaid labor worked between October 4, 2009 and October 9, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on December 22, 2009, finding that Holmes was nine hundred seventy-three dollars (\$973.00). Jimmy Hobbs filed an appeal of this finding on December 31, 2009.

The hearing was set for 9:00 a.m. The hearing convened at approximately 9:10 a.m. The Respondent appeared, the Claimant appeared not. Therefore, judgment is entered for the Respondent.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
DANNY R. WILLIAMS
ADMINISTRATIVE LAW JUDGE
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

TOM JENSEN

CLAIMANT

vs.

CASE NO. 2010-0017

AMR CONSTRUCTION

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, May 11, 2010. Tom Jensen has appealed an agency order that no unpaid wages were owed to him by AMR Construction. Jensen appeared on his own behalf. AMR Construction did not appear.

FINDINGS OF FACT

Jensen filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on December 1, 2009. He claimed one hundred twenty dollars (\$120.00) in unpaid wages earned on November 5, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on February 23, 2010, finding that Jensen was owed no wages. Jensen filed an appeal of this finding on March 4, 2010.

The hearing was set for 9:00 a.m. The hearing convened at approximately 9:10 a.m. The Claimant appeared, and the Respondent, appeared not. Therefore, judgment is entered for the Claimant in the amount of one hundred twenty dollars (\$120.00). The Respondent is directed to issue a check payable to Mr. Jensen in the amount of one hundred twenty dollars (\$120.00) within ten (10) days of the receipt of this Order and mailed to the Department of Labor.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams, Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

BOBBY GENE LINVILLE

vs.

CASE NO. 2009-0030

SPEEDY LUBE AND DETAIL

ORDER

This matter comes for hearing on this Tuesday, December 22, 2009 at the offices of the Arkansas Department of Labor. The hearing was set for 9:00 a.m. The hearing convened at approximately 9:20 a.m. Neither party has appeared for the hearing. The Claimant in this matter carries the burden of proof and his appearance is necessary to prevail.

THEREFORE, this matter is hereby dismissed without prejudice; however refilling will only be accepted under proof of good cause.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams
Administrative Law Judge

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

CORNELIOUS MAGSBY

CLAIMANT

Vs.

CASE NO. 2010-0009

KENNETH MAKOVEC

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, January 28, 2010. The Respondent, Kenneth Makovec has appealed the agency finding that Mr. Magsby is owed \$580.00 by the Respondent. Mr. Magsby appeared in person on his own behalf. Kenneth Makovec was represented by his attorney, Mr. David Carruth.

FINDINGS OF FACT

Cornelius Magsby filed his original wage claim with the Labor Standards Division of the Arkansas Department of Labor on September 21, 2009 in the amount of five hundred eighty dollars (\$580.00). Mr. Magsby's claim was for unpaid wages of at the rate of \$6.00/hour for 96 2/3 hours worked from August 2008 to June 2009. The Labor Standards Division, after an investigation, issued a Preliminary Wage Determination Order on November 9, 2009 finding that Mr. Magsby was entitled to recover \$580.00 unpaid wages from Mr. Makovec. Mr. Makovec filed his appeal on November 21, 2009.

Mr. Magsby testified at the hearing that he became acquainted with "Ken" Makovec more than fifteen (15) years ago and that he and Mr. Makovec had had some type of relationship since that time. Mr. Magsby stated that Mr. Makovec was often incapacitated and that that he (Mr. Magsby) cleaned up Mr. Makovec's house, cooked for Mr. Makovec and ironed Mr. Makovec's clothing. Although Mr. Magsby's written claim for wages a period of eleven (11) months in which Mr. Makovec lived in hotel room, he testified at the hearing that either Mr. Makovec, or Mr. Makovec's father, Johnny Makovec had paid him anything he was owed up

until the time Mr. Makovec received a check for back pay Mr. Makovec was owed for Social Security Disability. According to Mr. Magsby, he Mr. Magsby saw the substantial check and asked Mr. Makovec to pay him (Mr. Magsby) money Mr. Magsby claimed he was owed. Mr. Magsby stated that the Respondent refused to share any of his funds with Mr. Magsby and that Mr. Makovec moved back to his (Mr. Makovec's) parents' home two days after being confronted by Magsby about the check.

The respondent, Kenneth Makovec admitted that he had known the Claimant over fifteen years and that the two men had had some type of amicable relationship since that time. Mr. Makovec denied that he and the Claimant had ever had an employer-employee relationship, and that he had ever agreed to pay Mr. Magsby wages for any task or favors that may have been done by Mr. Magsby. Mr. Makovec testified that Mr. Magsby never claimed he was owed any back wages or other compensation until Mr. Makovec had received a settlement check on a claim he had made for disability.

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. 11-4-303(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. 1-4-303(c).
3. The Claimant, Cornelius Magsby did not carry his burden of proving that he had an agreement with the Respondent to work for \$6.00 per hour on Respondent's behalf, or that he worked 96 ½ hours for the respondent between the dates August 2008 and June 2009. The

Claimant is not entitled to receive any portion from any disability back pay Mr. Makovec may have received.

THEREFORE, IT IS CONSIDERED AND ORDERD that judgment is entered for the Respondent and the claim is hereby dismissed.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams
Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

CHRIS MINTON

CLAIMANT

vs.

CASE NO. 2010-0008

SPOTLESS MOBILE PRESSURE WASHING

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, February 2, 2010. Spotless Mobile Pressure Washing has appealed any agency order that two hundred ninety-seven dollars and fifty cents (\$297.50) in unpaid wages is owed to Chris Minton. Minton appeared on his own behalf. Spotless Mobile Pressure Washing did not appear.

FINDINGS OF FACT

Minton filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on September 21, 2009. He claimed two hundred eight-five dollars (\$285.00) in unpaid wages earned between August 6, 2009 and August 13, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on October 27, 2009, finding that Minton was owed two hundred ninety-seven dollars and fifty cents (\$297.50). Spotless Mobile Pressure Washing filed an appeal of this finding on November 10, 2009.

The hearing was set for 10:30 a.m. The hearing convened at approximately 10:20 a.m. The Claimant appeared, and the Respondent waived appearance via telephone at approximately 10:10 a.m.. Therefore, judgment is entered for the Claimant in the amount of two hundred ninety-seven dollars and fifty cents (\$297.50). The Respondent is directed to issue a check payable to Mr. Minton in the amount of two hundred ninety-seven dollars and fifty cents

(\$297.50) within ten (10) days of the receipt of this Order and mailed to the Department of Labor.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams, Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

JAMES ODOM

vs.

CASE NO. 2010-0018

PEA RIDGE EXPRESS

ORDER

This matter came for hearing on Tuesday, May 11, 2010 at the offices of the Arkansas Department of Labor. The hearing was set for 10:00 a.m. The hearing convened at approximately 10:30 a.m. Neither party appeared for the hearing. The Claimant in this matter carries the burden of proof and his appearance is necessary to prevail.

THEREFORE, this matter is hereby dismissed without prejudice; however refilling will only be accepted under proof of good cause.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams
Administrative Law Judge

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

CHRISTOPHER PICKERING

CLAIMANT

vs.

CASE NO. 2009-0036

LEGACY AUTOMOTIVE

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Thursday, January 14, 2010. Legacy Automotive has appealed any agency order that five hundred eighty four dollars (\$584.00) in unpaid wages is owed to Christopher Pickering. Pickering did not appear. Adam Guise appeared on behalf of Legacy Automotive.

FINDINGS OF FACT

Pickering filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on March 13, 2009. He claimed five hundred eighty four dollars (\$584.00) in unpaid wages earned between December 29, 2008 and January 5, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on October 26, 2009 finding that Pickering was owed five hundred eighty four dollars (\$584.00). Legacy Automotive filed an appeal of this finding on November 2, 2009.

The hearing was set for 10:00 a.m. The hearing convened at approximately 10:10 a.m. The Respondent appeared, the Claimant appeared not. Therefore, judgment is entered for the Respondent.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
DANNY R. WILLIAMS
ADMINISTRATIVE LAW JUDGE
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

CHRISTOPHER PICKERING

CLAIMANT

vs.

CASE NO. 2009-0036

LEGACY AUTOMOTIVE

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Thursday, January 14, 2010. Legacy Automotive has appealed any agency order that five hundred eighty four dollars (\$584.00) in unpaid wages is owed to Christopher Pickering. Pickering did not appear. Adam Guise appeared on behalf of Legacy Automotive.

FINDINGS OF FACT

Pickering filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on March 13, 2009. He claimed five hundred eighty four dollars (\$584.00) in unpaid wages earned between December 29, 2008 and January 5, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on October 26, 2009 finding that Pickering was owed five hundred eighty four dollars (\$584.00). Legacy Automotive filed an appeal of this finding on November 2, 2009.

The hearing was set for 10:00 a.m. The hearing convened at approximately 10:10 a.m. The Respondent appeared, the Claimant appeared not. Therefore, judgment is entered for the Respondent.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
DANNY R. WILLIAMS
ADMINISTRATIVE LAW JUDGE
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

CHLOE SINKUTCH

CLAIMANT

vs.

CASE NO. 2010-0007

SPOTLESS MOBILE PRESSURE WASHING

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Tuesday, February 2, 2010. Spotless Mobile Pressure Washing has appealed any agency order that fifty one dollars (\$51.00) in unpaid wages is owed to Chloe Sinkutch. Sinkutch appeared on her own behalf. Spotless Mobile Pressure Washing did not appear.

FINDINGS OF FACT

Sinkutch filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on September 21, 2009. She claimed fifty one dollars (\$51.00) in unpaid wages earned on August 13, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on October 27, 2009, finding that Sinkutch was owed fifty one dollars (\$51.00). Spotless Mobile Pressure Washing filed an appeal of this finding on November 10, 2009.

The hearing was set for 1:00 p.m.. The hearing convened at approximately 10:20 a.m. The Claimant appeared, and the Respondent waived appearance via telephone at approximately 10:10 a.m.. Therefore, judgment is entered for the Claimant in the amount of fifty one dollars (\$51.00). The Respondent is directed to issue a check payable to Ms. Sinkutch in the amount of fifty one dollars (\$51.00) within ten (10) days of the receipt of this Order and mailed to the Department of Labor.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
Danny R. Williams, Administrative Law Judge
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____

BEFORE THE ARKANSAS DEPARTMENT OF LABOR

JACKIE STILL

CLAIMANT

vs.

CASE NO. 2009-0035

D & D TILE

RESPONDENT

ORDER

This matter came before the Arkansas Department of Labor on Thursday, January 14, 2010. D & D Dile has appealed any agency order that one thousand one hundred forty dollars (\$1,140.00) in unpaid wages is owed to Jackie Still. Still did not appear. Waymond Dugan appeared by telephone on behalf of D&D Tile.

FINDINGS OF FACT

Still filed a wage claim with the Labor Standards Division of the Arkansas Department of Labor on August 17, 2009. He claimed one thousand four hundred twenty-five dollars (\$1,425.00) in unpaid wages earned between July 12, 2009 and July 29, 2009. After investigation, the Labor Standards Division issued a Preliminary Wage Determination Order on October 20, 2009, finding that Still was owed one thousand one hundred forty dollars (\$1,140.00). D & D Tile filed an appeal of this finding on October 30, 2009.

The hearing was set for 9:00 a.m. The hearing convened at approximately 9:15 a.m. The Respondent appeared, the Claimant appeared not. Therefore, judgment is entered for the Respondent.

IT IS SO ORDERED.

James L. Salkeld
Director of Labor

BY: _____
DANNY R. WILLIAMS
ADMINISTRATIVE LAW JUDGE
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205

DATE: _____