

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE WAGE CLAIM
OF ELIZABETH BEAUCHAINE,

Claimant,

vs.

DYKEMA LAND COMPANY, LLC,

Respondent

Case No. 358-2025

FINAL AGENCY DECISION

I. PROCEDURAL BACKGROUND

On November 24, 2023, Claimant, Elizabeth Beauchaine (Beauchaine), filed a wage claim alleging that she was owed wages for work performed on behalf of Dykema Land Company, LLC (DLC) during the period of October 16, 2021 through October 15, 2023. Following an investigation, the Department determined that DLC owed Beauchaine a total of \$53,906.17 in unpaid wages and associated penalties. After the Department reached its determination, DLC requested an appeal. This matter was transferred to the Office of Administrative Hearings (OAH) on December 4, 2024.

On November 5, 2025, the Hearing Officer convened a contested case hearing in this matter. At the hearing, Beauchaine was represented by James O'Brien. DLC was represented by Drew Moore Gaertner. Molly Williams (Williams) attended the hearing as DLC's designated representative. Beauchaine, Williams, Bobby Dellinger (Dellinger), DLC's accountant, Ken Dykema (Dykema), co-owner and president of DLC, and Jacqueline Schaefer (Schaefer), DLC's bookkeeper, provided sworn testimony.

The parties stipulated to the admission of the Department of Labor and Industry's (DLI) Documents 1-85, which constitute the administrative record of the investigation compiled by DLI. At the hearing, DLC's Exhibits B, C, D, and L were admitted into the record without objection. DLC's Exhibit F was admitted without objection; however, it will be filed under seal as it contains confidential tax filing documents related to DLC's business. DLC's Exhibit G was admitted over Beauchaine's relevance objection as it was potentially relevant to Beauchaine's credibility under Mont. R. Evid. 608, subject to the limitation as discussed below under Rule 609. DLC's Exhibit I was refused due to a lack of foundation to substantiate the document. DLC's Exhibits K and M were admitted over Beauchaine's foundation objections because DLC laid the appropriate foundation to authenticate the exhibits. Finally, DLC's Exhibit O

was admitted over Beauchaine's relevance objection because it was potentially relevant to Beauchaine's claim.

II. ISSUES

1. Whether Beauchaine is owed wages for work performed on behalf of DLC.
2. Whether Beauchaine is entitled to payment for accrued vacation time.
3. If Beauchaine is owed wages for work performed, what, if any, penalty should be assessed against DLC?

III. FINDINGS OF FACT¹

1. DLC is a limited liability company incorporated under the laws of the State of Montana.

2. Dykema is a co-owner, with his brother, Karl Dykema, and the president of DLC.

3. The primary business purpose of DLC is owning agricultural land that contains a residence. DLC leases the agricultural land to a third-party who conducts agricultural operations on the land. However, DLC retains responsibility for maintaining some portions of the land and the residence.

4. At some point, DLC sold land that it owned to a developer who subdivided the property into individual lots for sale for the construction of single-family residences. The developed portion of the property eventually was sold back to DLC.

5. As the developer of the subdivision, Dykema controls the homeowners' association, which is called Price Hill Homeowners Association (Price Hill).

6. Dykema also owns and operates SKS Land Holdings (SKS), which is the entity that owns the individual lots in the Price Hills subdivision, and is the entity responsible for selling the lots to the public.

7. Dykema owns and operates Transverse, which is a company that he uses to buy and sell classic cars.

8. Beauchaine moved into and rented a residence owned by DLC.

¹ Any proposed finding of fact offered by a party not specifically addressed herein is deemed not supported by substantial competent evidence in the record.

9. At some point, Dykema and Beauchaine began a romantic relationship, and she ultimately moved into Dykema's house.

10. Beauchaine and Dykema discussed her working for DLC. Both the date of hire and Beauchaine's salary amount are significant points of disagreement between the parties.

11. Beauchaine testified that she and Dykema agreed that she was to be paid an annual salary of \$50,000.00 per year, and that she started working for DLC and Dykema's other entities in October, 2021.

12. Dykema testified that the agreed-upon salary amount was \$24,000.00 annually, and that he would never pay someone \$50,000.00 per year to perform the tasks that Beauchaine was conducting. Dykema also claims that Beauchaine did not start working until June, 2022.

13. The parties did not memorialize the terms of Beauchaine's employment in any written document, and DLC does not maintain an employee handbook or other document setting forth the conditions of employment.

14. In September, 2021, Beauchaine hired Schaefer to be DLC's bookkeeper.

15. In mid-October, 2021, Beauchaine discussed Quickbooks licenses on behalf of Price Hills, DLC, and SKS with Schaefer.

16. In late-October, 2021, Beauchaine inquired about an online payment system on behalf of Price Hill HOA.

17. In early-November, 2021, Beauchaine was involved in an email exchange regarding negotiations over the purchase of residential lots owned by SKS.

18. In mid-December, 2021, Beauchaine discussed the proper submission of a request for an outbuilding review on behalf of Price Hill HOA with a homeowner.

19. Emails also indicate that Beauchaine discussed other matters on behalf of the entities in the spring of 2022.

20. On June 9, 2022, Beauchaine received her first paycheck from DLC. The paycheck was for a gross amount of \$2,083.33 and covered the pay period from May 17, 2022 through May 31, 2022.

21. Beauchaine also received paychecks on the following dates:

June 9, 2022	\$2,083.33
June 20, 2022	\$2,083.33
June 29, 2022	\$5,414.18
July 5, 2022	\$2,083.33
July 20, 2022	\$2,083.33
August 5, 2022	\$2,083.33
August 19, 2022	\$2,083.33
September 2, 2022	\$2,083.33
September 20, 2022	\$2,083.33
October 5, 2022	\$2,083.33
October 20, 2022	\$2,083.33
November 5, 2022	\$2,083.33
November 18, 2022	\$2,083.33
December 5, 2022	\$2,083.33
December 20, 2022	\$2,083.33
January 5, 2023	\$2,083.33
January 20, 2023	\$2,083.33
February 5, 2023	\$2,083.33
June 20, 2023	\$2,083.33
July 5, 2023	\$2,083.33
July 20, 2023	\$2,083.33
August 5, 2023	\$2,083.33
August 20, 2023	\$2,083.33
September 5, 2023	\$2,083.33
September 20, 2023	\$2,083.33
October 5, 2023	\$2,083.33

22. Beauchaine did not receive paychecks for the following pay periods:

10/16 – 10/31/2021	\$2,083.33
11/1 – 11/5/2021	\$2,083.33
11/16 - 11/30/2021	\$2,083.33
12/1- 12/15/2021	\$2,083.33
12/16 – 12/31/2021	\$2,083.33
1/1- 1/15/2022	\$2,083.33
1/16 – 1/31/2022	\$2,083.33
2/1 – 2/15/2022	\$2,083.33
2/16 – 2/28/2022	\$2,083.33
3/1 – 3/15/2022	\$2,083.33
3/16 – 3/31/2022	\$2,083.33
4/1 – 4/15/2022	\$2,083.33
4/16 – 4/30/2022	\$2,083.33
5/1 – 5/15/2022	\$2,083.33

2/1 – 2/15/2023	\$2,083.33
2/16 – 2/28/2023	\$2,083.33
3/1 – 3/15/2023	\$2,083.33
3/16 – 3/31/2023	\$2,083.33
4/1 – 4/15/2023	\$2,083.33
4/16 – 4/31/2023	\$2,083.33
5/1 – 5/15/2023	\$2,083.33
5/16 – 5/31/2023	\$2,083.33
10/1 – 10/15/2023	\$2,083.33
Total:	\$47,916.59

23. Beauchaine claimed that she is owed an additional sum for 40 hours of accrued but unused vacation time.

24. No notation of vacation time appeared on any of Beauchaine’s paystubs until her October 10, 2023, paystub which showed an accrued balance of 40 hours for the first time.

25. Dykema claims that he did not discover the amount Beauchaine was being paid until February, 2023, and confronted Beauchaine about her salary.

26. Dykema took no action to reduce Beauchaine’s salary because Beauchaine continued to get paid the same amount as evidenced by paystubs issued after that date.

27. Dykema and Beauchaine had a falling out that resulted in Beauchaine separating from her employment with DLC.

28. Beauchaine’s last day of employment with DLC was October 16, 2023.

29. In April, 2022, Williams was hired by Dykema to assist the entities. Williams is primarily responsible for overseeing Price Hill, but also does tasks on behalf of other entities owned by Dykema.

30. Prior to this, Williams was initially hired by Dykema as a cleaner for the house where Karl resides. Eventually, Williams’ duties expanded and she began performing tasks on behalf of the entities.

31. After Beauchaine left DLC, Williams began performing tasks primarily for Price Hills and SKS.

32. Williams is also responsible for maintaining the insurance on the classic cars owned through Transverse.

33. Williams stated that she is paid an annual salary of \$52,000.00 per year, and that the entirety of her salary is paid by Price Hills.

34. On June 1, 2023, Beauchaine filled out a Montana Department of Labor and Industry Benefits Accuracy Measurement Form (Form), wherein Beauchaine claimed that she started working for DLC on June 20, 2022 and that her last day was December 31, 2022.

35. Beauchaine admitted that it was her handwriting on the Form, but could not explain why she included those dates.

IV. DISCUSSION²

A. Wage Claim Analytical Framework

“[E]very employer of labor in the state of Montana shall pay to each employee the wages earned by the employee in lawful money of the United States . . . and a person for whom labor has been performed may not withhold from any employee any wages earned or unpaid for a longer period than 10 business days after the wages are due and payable. . . .” Mont. Code Ann. § 39-3-204(1). An employer who fails to pay an employee is subject to a penalty in an amount not to exceed 110% of the wages due and unpaid. Mont. Code Ann. § 39-3-206(1). “An employee may recover all wages and penalties provided for the violation of 39-3-206 by filing a complaint within 180 days of default or delay in the payment of wages.” Mont. Code Ann. § 39-3-207(1). “[A]n employee may recover wages and penalties for a period of 2 years prior to the date of the employee’s last date of employment.” Mont. Code Ann. § 39-3-207(2).

An employee seeking unpaid wages has the burden of proving work performed without proper compensation. *Anderson v. Mt. Clemens Pottery Co.* (1946), 328 U.S. 680; *Garsjo v. Dept. of Labor and Industry* (1977), 172 Mont. 182, 562 P.2d 473. To meet this burden, the employee must produce evidence to “show the extent and amount of work as a matter of just and reasonable inference.” *Garsjo* at 189, 562 P.2d at 476-77; see also *Marias Health Care Srv. v Turenne*, 2001 MT 127, ¶¶13, 14, 305 Mont. 419, 422, 28 P.3d 494, 495.

Once an employee has shown as a matter of just and reasonable inference that wages have been earned but not paid, the burden shifts to the employer to come forward with evidence of the precise amount of the work performed or with evidence to negate the reasonableness of the inference drawn from the evidence of the employee. *Garsjo*, 172 Mont. at 189, 562 P.2d at 477. If the employer fails to produce such evidence, the employee is entitled to judgment in his or her favor, even though the amount is only a reasonable approximation. *Garsjo*, 172 Mont. at 189, 562 P.2d at 477.

² Any statements of fact in this discussion are hereby incorporated by reference to supplement the findings of fact. *Coffman v. Niece* (1940), 110 Mont. 541, 105 P.2d 661.

B. Whether Beauchaine Satisfied Her Initial Burden

Beauchaine alleges that she first started working for DLC on October 16, 2021, and it was agreed that she would receive an annual salary of \$50,000.00 paid out in bi-monthly payments. To satisfy her burden, Beauchaine relies on the fact that Schaefer testified that it was Beauchaine who hired her as DLC's bookkeeper in September, 2021. This fact evidences that Beauchaine was vested with hiring authority on behalf of DLC, which supports an inference that she was employed by DLC in Fall 2021.

Beauchaine further relies on a number of emails, dated late summer and fall of 2021, which prove she was performing work on behalf of DLC at the time they were sent. These emails, the authenticity of which was not challenged by DLC, show that Beauchaine was discussing Quickbooks access, discussing online payment systems, discussing the purchase of lots in the Price Hills subdivision, and advising homeowners in the subdivision as to the proper procedure for submitting plans for the HOA's consideration. These emails further support a just and reasonable inference that Beauchaine was performing services on behalf of Dykema's entities as early as October, 2021.

As for the amount at which Beauchaine was to be compensated, the paystubs in the record indicate that Beauchaine was being compensated at a rate of \$2,083.33 on a bi-monthly basis. Calculating that figure over 24 pay periods, the total gross amount of compensation that Beauchaine would have received was approximately \$50,000.00. This shows that Beauchaine was being compensated by DLC in the amount that Beauchaine claims.

Finally, though Beauchaine submitted information establishing that she started working for DLC on October 16, 2021, and ended her employment on October 16, 2023, the evidence in the record shows that Beauchaine was not compensated for a number of pay periods during her tenure. More specifically, Beauchaine was not paid for the following pay periods:

10/16 – 10/31/2021	\$2,083.33
11/1 – 11/5/2021	\$2,083.33
11/16 - 11/30/2021	\$2,083.33
12/1– 12/15/2021	\$2,083.33
12/16 – 12/31/2021	\$2,083.33
1/1– 1/15/2022	\$2,083.33
1/16 – 1/31/2022	\$2,083.33
2/1 – 2/15/2022	\$2,083.33
2/16 – 2/28/2022	\$2,083.33
3/1 – 3/15/2022	\$2,083.33
3/16 – 3/31/2022	\$2,083.33
4/1 – 4/15/2022	\$2,083.33
4/16 – 4/30/2022	\$2,083.33
5/1 – 5/15/2022	\$2,083.33

2/1 – 2/15/2023	\$2,083.33
2/16 – 2/28/2023	\$2,083.33
3/1 – 3/15/2023	\$2,083.33
3/16 – 3/31/2023	\$2,083.33
4/1 – 4/15/2023	\$2,083.33
4/16 – 4/31/2023	\$2,083.33
5/1 – 5/15/2023	\$2,083.33
5/16 – 5/31/2023	\$2,083.33
10/1 – 10/15/2023	\$2,083.33

As a result, Beauchaine has alleged that she was not paid a total of \$47,916.59. Beauchaine’s claim is supported by the paystubs in the record evidencing sporadic payments over the two-year period she was employed by DLC. Based upon the foregoing, Beauchaine carried her initial burden of proving that she was employed by DLC as of October 15, 2021, ended her employment on October 16, 2023, and is owed \$47,916.59 in past due wages.

C. Whether DLC Carried Its Burden of Proof

Since Beauchaine carried her initial burden, the burden then shifted to DLC to prove either the precise amount of work performed and wages paid, or to offer evidence to negate the reasonableness of the inference drawn from the evidence presented by Beauchaine. In this regard, DLC raises several arguments in an attempt to negate Beauchaine’s inference.

Initially, DLC attempts to meet its burden of negating the reasonable inference drawn from Beauchaine’s evidence by arguing that it is not individually obligated to pay for work that Beauchaine performed on behalf of other entities not named in this matter. However, DLC’s argument is unavailing because a joint employment scenario existed in Beauchaine’s employment. A single employee can be considered to be jointly employed by two or more employers for purposes of the Montana Wage and Hour Act depending on the facts and circumstances of each case. Admin. R. Mont. 24.16.2035(1). A joint employment will be found: 1) “[w]here one employer is acting directly or indirectly in the interest of the other employer (or other employers) in relation to the employee;” or 2) “[w]here the employers are not completely disassociated with respect to the employment of a particular employee and may be deemed to share control of the employee, directly or indirectly, by reason of the fact that one employer controls, is controlled by, or is under common control with the other employer.” Admin. R. Mont. 24.16.3025(2). “[I]f the facts establish that the employee is employed jointly by two or more employers, i.e., that employment by one employer is not completely disassociated from employment by the other employer(s), all of the employee’s work for all of the joint employers during the workweek is considered as one employment for purposes of the law.” Admin. R. Mont. 24.16.2035(1). “[A]ll joint employers are responsible, both individually and jointly, for compliance with all of the applicable provisions of the law, including

the overtime provisions, with respect to the entire employment for the particular workweek.” *Id.*

Here, the particular facts and circumstances of this case show that Dykema’s entities shared control of Beauchaine, which obligates DLC to pay Beauchaine for any work she performed on behalf of the joint employers, including SKS and Price Hills owned and operated by Dykema. As stated above, Dykema and his brother own and operate SKS, Price Hill HOA, Transverse, and DLC, and the finances of the individual entities are intertwined as evidenced by the testimony of several witnesses that discussed the frequent transfers of monies between entities to cover expenses. The entanglement of the entities’ finances proves that the entities are under common control, and there is no clear disassociation between the entities. Moreover, the frequency at which Beauchaine performed services on behalf of all entities shows the lack of disassociation between these various entities. Finally, the fact that Beauchaine was not required to keep track of time spent working for each entity, and was paid the entirety of her wages solely by DLC, establishes that joint employment existed. Since joint employment existed, DLC cannot escape liability by claiming that it is not responsible for paying Beauchaine for work performed for the other entities because the joint employment makes DLC individually responsible for the whole claim asserted by Beauchaine.

This employment situation was not unique to Beauchaine. Williams testified that she is primarily responsible for overseeing the Price Hills HOA; however, she also stated that this necessarily requires her to perform work on behalf of SKS. Williams also testified that she pays the insurance for the cars owed through Transverse. Despite her acknowledgement that she worked for, at least, three of Dykema’s entities, she stated that she is paid solely by Price Hills. Thus, DLC’s position, that it does not owe Beauchaine wages because the work she performed was on behalf of other entities, is unavailing because a pattern has been established whereby Dykema expected his employees to work across his various entities while being paid by a single employer. This pattern establishes a joint employment situation.

Next, DLC points to the Form, as evidence that Beauchaine admittedly did not start working for DLC until June, 2022, in an attempt to undermine the reasonable inference created by Beauchaine. In the Form, Beauchaine indicated that she worked for DLC from June, 2022 through December, 2022. While this Form is concerning, it is not conclusive evidence of when Beauchaine started working for DLC. In fact, the other evidence in the record undermines the weight that should be given to the Form. For instance, Beauchaine’s first paystub was issued on June 9, 2022. This pay stub clearly indicates that Beauchaine was being paid for the pay period starting May 15 and ending May 31, 2022. Further, the Form does not negate the evidence that Beauchaine was doing work on behalf of DLC in the fall of 2021. Thus, the Form’s weight is insufficient to negate the inference created by Beauchaine’s evidence, that she began working for DLC in October, 2021.

DLC also argues that Beauchaine failed to create a reasonable inference that her salary was \$50,000.00 per year. However, there is insufficient evidence in the record supporting DLC's unsupported contention that Beauchaine was being compensated at a rate of \$24,000.00. DLC did not come forward with paystubs, emails, agreements, or any other documents to support this pay rate. The only thing that DLC relies upon is Dykema's testimony that he would never pay an employee \$50,000.00 for performing so little work. Yet, Dykema's contention that he would never pay an employee \$50,000.00 is not credible in light of Williams' testimony who stated that her annual salary is \$52,000.00 for performing similar duties as Beauchaine. Moreover, if Beauchaine was working so little, as Dykema claims, then the hiring of Williams would have been unnecessary. This evidence establishes that an approximate \$50,000.00 salary is what Dykema feels is appropriate to pay those within his employ to perform work on behalf of his various entities. Based upon the preponderance of the evidence in the record, DLC failed to negate the reasonable inference that Beauchaine's annual salary was \$50,000.00.

DLC's opposition to the amount of Beauchaine's claimed salary is also undermined by Dykema's failure to take any action upon supposedly learning of Beauchaine's salary amount. Dykema testified that he was unaware of the amount Beauchaine was being paid until February, 2023 when he became aware of it. However, it is apparent that neither Dykema nor DLC took steps to reduce Beauchaine's salary. Paystubs in the record show that Beauchaine continued to earn the bi-weekly rate of \$2,083.33 in June, July, August, and September, 2023. Since Beauchaine was still earning the same amount long after DLC allegedly discovered her salary and took no action to adjust her salary to the alleged agreed-upon rate of \$24,000.00, DLC's position lacks credibility.

Next, DLC's argument that Beauchaine operated with "managerial autonomy" and should have paid herself out of each entity for which she was owed wages is likewise unavailing in the face of the finding of joint employment. Moreover, such an argument impermissibly shifts the burden onto Beauchaine to ensure she was properly paid. Nowhere, under Montana law, is an employer allowed to shift a burden to an employee to ensure that they are paid appropriately regardless of the position they hold within the company, once the employee meets their burden of establishing wages are owed. Conversely, the preponderance of the evidence in the record establishes that Dykema paid employees from a single entity while expecting them to perform services on behalf of all entities, and DLC's practice certainly cannot serve to negate a reasonable inference that an employee is owed wages.

DLC attempts to undermine Beauchaine's credibility by referencing a prior criminal conviction, an unemployment benefits overpayment, and a current criminal investigation. However, such attacks for the purpose of impeachment do not defeat the wage claim. First, as to Beauchaine's prior conviction, pursuant to Mont. R. Evid. 609, "[f]or the purpose of attacking the

credibility of a witness, evidence that the witness has been convicted of a crime is not admissible.” *Id.* The Montana Supreme Court has been adamant in prior rulings that Rule 609 be strictly enforced. *See State v. Shaw*, 237 Mont. 451, 775 P.2d 207, 208-209 (1989) (“the aim on the part of the State was to improperly impugn the character of the defendant and thereby suggest a greater likelihood of guilt of the crimes with which he was charged. We will not tolerate this intentional and significant evasion of our rules.”); *see also State v. Wagner*, 2013 MT 47, 296 P.3d 1142. To the extent evidence of Beauchaine’s prior conviction in Exhibit G was admitted, that portion of the exhibit is not admitted pursuant to Rule 609.

Next, the Unemployment Insurance Statement of Benefits Overpayment (Statement) is immaterial to this matter. The Statement is related to a matter from 2015, which is approximately 6 years prior to the start of Beauchaine’s employment with DLC making it too remote for consideration. More importantly, the Statement does not indicate the reason for the overpayment, and DLC has offered no explanation to support an inference that the overpayment resulted in some malfeasance on Beauchaine’s part. Overpayments occur in the unemployment insurance realm and can result from a determination wherein the Department finds that a claimant, who was initially found to be entitled to benefits, is ineligible due to the circumstances surrounding their separation from employment. There is nothing in the record establishing that Beauchaine’s overpayment was the result of some fraud as DLC has implied in this matter, and, without more, the Hearing Officer determines the Statement creates nothing more than a speculative and unsubstantiated inference of wrongdoing.

Similarly, DLC’s raising of an ongoing investigation into Beauchaine’s alleged criminal conduct while she was employed at DLC is unpersuasive. Beauchaine has not been charged with, nor has she been convicted of, any wrongdoing. Allowing an attack on Beauchaine’s credibility over an incomplete investigation without knowing what the outcome of that investigation might be would unfairly prejudice Beauchaine. Moreover, the evidence in the record, as detailed above, supports Beauchaine’s argument and nothing in the record establishes that Beauchaine is not credible in the accusations she has made herein. A hearing officer is entitled to judge witness credibility. *Benjamin v. Anderson*, 2005 MT 123, ¶ 37, 327 Mont. 173, 112 P.3d 1039. “A hearing examiner, when one is used, is in the unique position of hearing and observing all testimony entered in the case.” *Moran v. Shotgun Willies, Inc.*, 270 Mont. 47, 51, 889 P.2d 1185, 1187 (1995). Therefore, DLC’s attempts to impugn Beauchaine’s character by asserting her conduct and work underlying the wage claim was actually fraudulent, do not negate the reasonable inference created by Beauchaine’s evidence.

Based on the foregoing, DLC did not carry its burden of either proving the precise amount of time worked or eliciting sufficient evidence to negate the inference created by Beauchaine’s evidence that she began working for DLC in October, 2021 and was to be paid \$50,000.00 per year.

D. Amount of Wages Owed to Beauchaine

Since DLC failed to negate the reasonable inference created by Beauchaine's evidence, Beauchaine is owed wages for any period for which she worked and was not paid for any period between October, 2021 and October, 2023. This is so because DLC did not put forth any evidence in the record showing that Beauchaine had a break in service between October 16, 2021, when she started working for DLC, and October 15, 2023, which is the last day she was employed by DLC.

During her two-year tenure in DLC's employ, Beauchaine should have made \$100,000.00. During that period, the records establish that Beauchaine was paid bi-weekly payments on the following dates:

June 9, 2022	\$2,083.33
June 20, 2022	\$2,083.33
June 29, 2022	\$5,414.18
July 5, 2022	\$2,083.33
July 20, 2022	\$2,083.33
August 5, 2022	\$2,083.33
August 19, 2022	\$2,083.33
September 2, 2022	\$2,083.33
September 20, 2022	\$2,083.33
October 5, 2022	\$2,083.33
October 20, 2022	\$2,083.33
November 5, 2022	\$2,083.33
November 18, 2022	\$2,083.33
December 5, 2022	\$2,083.33
December 20, 2022	\$2,083.33
January 5, 2023	\$2,083.33
January 20, 2023	\$2,083.33
February 5, 2023	\$2,083.33
June 20, 2023	\$2,083.33
July 5, 2023	\$2,083.33
July 20, 2023	\$2,083.33
August 5, 2023	\$2,083.33
August 20, 2023	\$2,083.33
September 5, 2023	\$2,083.33
September 20, 2023	\$2,083.33
October 5, 2023	\$2,083.33

Based upon the evidence in the record, over the two-year period Beauchaine was employed by DLC, she received a total of \$57,497.43 in wages. When deducting the amount of wages Beauchaine received from the \$100,000.00 that Beauchaine earned and should have been paid over that two-year period, Beauchaine is owed at total of \$42,502.57.

E. Whether Beauchaine is Entitled to Vacation Pay

In addition to wages, Beauchaine is claiming that she is owed for accrued but unpaid vacation time. In Montana, there is no statutory requirement that an employer provide vacation time to employees. In the absence of a statutory requirement, the analysis of whether vacation time is owed is guided by the employment contract between the parties. *Langager vs. Crazy Creek Products, Inc.*, 1998 MT 44, ¶ 26, 954 P.2d 1169. If the contract between the parties allows for the accrual of vacation pay, then any accrued and unused vacation hours at the end of the employee's employment are due and payable as wages. *Id.* (citing 23 Op. Att'y Gen. 151, 153 (1949)). Furthermore, "once an employee has accrued paid vacation pursuant to the terms of his or her employment contract, an employer may not then impose conditions subsequent which would, if unmet, effectively divest an employee of that accrued vacation." *Langager*, ¶ 30.

In this matter, there is no written employment contract between the parties establishing that DLC agreed to provide Beauchaine with vacation time. In the absence of a written contract, it will be implied that an agreement exists if sufficient evidence exists establishing that the parties intended to contract. Mont. Code Ann. § 28-2-103. Here, there is insufficient evidence to support a finding that an implied contract existed wherein DLC agreed to allow Beauchaine to accrue vacation time. The only evidence in the record regarding vacation time is a singular paystub, dated October 10, 2023, which shows that Beauchaine had a balance of 40 hours of accrued vacation time. None of Beauchaine's other paystubs contained any notation for vacation time, including balances or usage. In the absence of any other evidence establishing that DLC agreed to pay Beauchaine vacation time, Beauchaine has failed to carry her burden, and no award will be given for any alleged, but unproven, accrued vacation time.

F. Amount of Penalties Owed on Wages

Since it has been found that DLC owes wages to Beauchaine, the final remaining determination is what amount of penalty should be imposed upon DLC for its failure to pay. As previously stated, an employer who is found to owe wages to an employee is subject to a penalty pursuant to Mont. Code Ann. § 39-3-206(1). "A penalty must also be assessed against and paid by the employer to the employee in an amount not to exceed 110% of the wages due and unpaid." *Id.* Though the amount of the penalty is discretionary, given the language of this statutory provision, when an employer is found to owe an employee wages, the imposition of a penalty must be imposed upon the employer for said failure to pay wages is mandatory.

Montana law sets forth circumstances for when the maximum 110% penalty should be imposed upon an employer. These circumstances include when: 1) the employer fails to provide information requested by the department and/or does not cooperate in the department's investigation of the

wage claim; 2) there is substantial credible evidence that the employer's payroll records are falsified or intentionally misleading; 3) the employer has previously violated similar wage and hour statutes within three years prior to the date of filing of the wage claim; 4) the employer has issued an insufficient funds paycheck; or 5) the employer has incorrectly classified a worker as an independent contractor. Admin. R. Mont. 24.16.7556(1)(a)-(e).

Here, the circumstances of this case do not fit within one of the enumerated examples of circumstances that would justify imposing the maximum 110% penalty. There is nothing to suggest that DLC withheld documents or otherwise failed to cooperate in the Department's investigation, as the Department did not impose the maximum penalty. No allegation has been made that DLC's payroll records have been falsified or are misleading. Beauchaine did not elicit any evidence showing that DLC had committed similar wage and hour statutes in the last three years. No evidence exists showing that any of Beauchaine's payroll checks were denied for insufficient funds. Finally, Beauchaine has not alleged that DLC improperly classified her as an independent contractor. As such, there is no basis to impose the maximum penalty allowable by law.

Thus, the question becomes this: what amount of penalty should be imposed on DLC following its failure to pay Beauchaine wages? Under the specific facts and circumstances of this case, the Hearing Officer finds that a 10% penalty, or \$4,250.25, is appropriate to impose upon DLC in this matter.

V. CONCLUSIONS OF LAW

1. The State of Montana and the Commissioner of the Department of Labor and Industry have jurisdiction over this complaint under Mont. Code Ann. § 39-3-201 et seq. *State v. Holman Aviation Co.*, 176 Mont. 31, 575 P.2d 923 (1978).

2. DLC is an employer as that term is defined under Mont. Code Ann. § 39-3-201(5).

3. Beauchaine is an employee pursuant to Mont. Code Ann. § 39-3-201(4).

4. Beauchaine proved by a preponderance of the evidence that she is owed wages, in the amount of \$42,502.57, for work performed for which she was not compensated.

5. In addition to the wages owed, DLC is subject to a 10% penalty pursuant to Mont. Code Ann. § 39-3-206, in the amount of \$4,250.25.

6. Beauchaine failed to carry her burden of proof, by a preponderance of the evidence, that she is entitled to accrued but unpaid vacation pay.

VI. ORDER

Based on the foregoing, the Hearing Officer hereby orders DLC to pay Beauchaine a total of \$46,752.82 in unpaid wages and associated penalties. If withholding is applied to the wage portion, an itemized statement showing any payroll deductions, must be sent to the Department of Labor & Industry, P.O. Box 201503, Helena MT 59620-1503. The penalty amount must be included in the payment. Taxes should be withheld from the wage portion only.

DATED this 17th day of March, 2026.

DEPARTMENT OF LABOR & INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

By: /s/ JEFFREY M. DOUD
JEFFREY M. DOUD
Hearing Officer

NOTICE: You are entitled to judicial review of this final agency decision in accordance with Mont. Code Ann. § 39-3-216(4), by filing a petition for judicial review in an appropriate district court within 30 days of the date of mailing of the hearing officer's decision. See also Mont. Code Ann. § 2-4-702. Please send a copy of your filing with the district court to:

Department of Labor & Industry
Wage & Hour Unit
P.O. Box 201503
Helena, MT 59620-1503

If there is no appeal filed and no payment is made pursuant to this Order, the Commissioner of the Department of Labor and Industry will apply to the District Court for a judgment to enforce this Order pursuant to Mont. Code Ann. § 39-3-212. Such an application is not a review of the validity of this Order.