

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
HEARINGS BUREAU

IN THE MATTER OF THE WAGE CLAIMS) Case Nos. 1227-2003 & 1325-2003
OF RONALD T. KENT and ROBERT J. GAW,)

Claimants,)

vs.)

DELIGHT AND DELIGHT CONSTRUCTION,)
INC., A MONTANA CORPORATION,)

Respondent.)

FINDINGS OF FACT;
CONCLUSIONS OF LAW;
AND ORDER

I. INTRODUCTION

Ronald Kent and Robert Gaw each filed a claim for wages against Delight & Delight Construction (Delight). After investigation, the Wage and Hour Division found that Delight owed Kent \$185.00 in unpaid wages plus a 110% administrative penalty for a total of \$371.10. The Wage and Hour Division also determined that Delight owed Gaw \$800.00 in unpaid wages plus a 110% administrative penalty for a total of \$1,680.00. Delight appealed each of these determinations and the matters were forwarded to the Hearings Bureau for contested case proceedings.

Hearing Examiner Gregory L. Hanchett consolidated Kent's and Gaw's cases (since they arose out of the same facts) and convened the matter for hearing on July 24, 2003. Kent appeared and represented himself. Gaw appeared and represented himself. Edward Murphy, Attorney at Law, represented Delight. Immediately prior to the beginning of the hearing, Delight, after being apprised of the consequences of doing so, consented to entry of an order compelling Delight to pay Kent \$185.00 in unpaid wages and 110% penalty and to pay Gaw \$800.00 in unpaid wages plus a 110% penalty.

II. FINDINGS OF FACT

1. Delight concedes that it owes \$185.00 in unpaid wages to Kent and \$203.50 in administrative penalty (a 110% penalty) for a total of \$387.50.

2. Delight concedes that it owes \$800.00 in unpaid wages to Gaw and \$880.00 in administrative penalty (a 110% penalty) for a total of \$1,680.00.

3. Delight has been apprized of the consequences of consenting to an order compelling payment of unpaid wages and 110% penalty to both Kent and Gaw and is willing to do so.

III. 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* (1978), 176 Mont. 31, 575 P.2d 925.

2. Delight knowingly and willingly consents to entry of judgment against it in this case.

3. In light of Delight's concession that it owes the unpaid wages and administrative penalties described in the findings of fact, and Kent's and Gaw's willingness to accept those amounts, there is no need for contested case proceedings in this matter. Because of this stipulation between the parties, disposition of this matter under Mont. Code Ann. § 2-4-603 is appropriate.

IV. ORDER

Delight is ordered to tender a cashier's check or money order in the amount of \$387.50, made payable to Ronald T. Kent, representing wages and penalty owed to Kent, and mailed to the Employment Relations Division, P.O. Box 6518, Helena, Montana 59624-6518, no later than 30 days after service of this decision. Delight is further ordered to tender a second cashier's check or money order in the amount of \$1,680.00, made payable to Robert J. Gaw, representing wages and penalty owed to Gaw, and mailed to the Employment Relations Division, P.O. Box 6518, Helena, Montana 59624-6518, no later than 30 days after service of this decision.

DATED this 30th day of July, 2003.

DEPARTMENT OF LABOR & INDUSTRY
HEARINGS BUREAU

By: /s/ GREGORY L. HANCHETT

GREGORY L. HANCHETT
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 service of the decision. See also Mont. Code Ann. § 2-4-702.