

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
HEARINGS BUREAU

IN THE MATTER OF THE WAGE CLAIM) Case No. 322-2010
OF SEPTA D. STEVENS,)

Claimant,)

vs.)

CORNER SPORTS BAR & CASINO, LLC,)
a Montana Limited Liability Company,)

Respondent.)

**FINDINGS OF FACT;
CONCLUSIONS OF LAW;
AND ORDER**

* * * * *

I. INTRODUCTION

Hearing Officer Gregory L. Hanchett convened a contested case hearing in this matter on February 2, 2010. Claimant Septa Stevens appeared on her own behalf and announced that she was ready to proceed. Corner Sports Bar, LLC, failed to appear even though it had timely notice of the time and date of the hearing. As a result of Corner Sports Bar, LLC's failure to appear, this matter proceeded in its absence.

II. FINDINGS OF FACT

1. Corner Sports Bar, LLC, failed without good cause to appear at the hearing in this matter.

2. Because Corner Sports Bar, LLC, did not appear, it failed to demonstrate that the Wage and Hour Unit's determination was erroneous. In accordance with this tribunal's earlier order, Corner Sports Bar, LLC's failure to appear constitutes good cause to default Corner Sports Bar, LLC, to affirm the determination below. The determination below found that Corner Sports Bar, LLC, owed Stevens additional wages in the amount of \$14,972.01 and a 110% penalty in the amount of \$16,469.21.

3. The record provided to the Hearings Bureau (Documents 1 through 57) fully supports the finding that Stevens is owed \$14,972.01 in unpaid wages and a 110% penalty of \$16,469.21 for a total due to Stevens of \$31,441.22.

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. The appellant without good cause failed to appear at hearing and, by failing to appear and prosecute its appeal, has shown no basis for reversing the determination below.

3. A review of the Wage and Hour Unit determination shows no legal cause why the order should not be affirmed.

4. Corner Sports Bar, LLC, owes Stevens wages totaling \$14,972.01. In addition, Corner Sports Bar, LLC, owes Stevens \$16,469.21 in penalty.

IV. ORDER

Based upon the foregoing, the determination of the Wage and Hour Unit that Corner Sports Bar, LLC, owes wages and penalty to Septa Stevens is AFFIRMED. Corner Sports Bar, LLC, is hereby ORDERED to tender a cashier's check or money order in the amount of \$31,441.22, representing \$14,972.01 in unpaid wages and \$16,469.21 in penalty, made payable to Septa D. Stevens, and mailed to the Employment Relations Division, P.O. Box 201503, Helena, Montana 59620-1503, no later than 30 days after service of this decision. Corner Sports Bar, LLC, may deduct applicable withholding from the wage portion but not the penalty portion of the amount due.

DATED this 3rd day of February, 2010.

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.

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.