

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

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| IN THE MATTER OF THE WAGE CLAIM) | Case No. 1140-2020 |
| OF JESSICA SHORTRIDGE,) | |
|) | |
| Claimant,) | |
|) | |
| vs.) | FINAL AGENCY DECISION |
|) | |
| RMTC, LLC, d/b/a ROCKY MOUNTAIN) | |
| TREATMENT CENTER,) | |
|) | |
| Respondent.) | |

* * * * *

I. INTRODUCTION

On May 16, 2019, Jessica Shortridge (Shortridge) filed a wage and hour claim with the Wage & Hour Unit of the Montana Department of Labor & Industry (Wage & Hour Unit) alleging RMTC, LLC, (RMTC) owed her \$43,000.00 in piece rate wages from April 1, 2016, through April 1, 2019, \$24.85 in vacation from January 1, 2019, through April 10, 2019, \$135.54 in paid time off from January 1, 2019, through April 10, 2019, and \$5,726.09 in other amounts for unpaid mileage reimbursement from April 1, 2016, through April 8, 2019.

On May 30, 2019, Shortridge amended her claim to assert RMTC owed her \$34,000.00 in piece rate wages from April 1, 2017, through April 1, 2019, \$24.85 in vacation from March 26, 2019, through April 10, 2019, \$135.54 in paid time off from March 26, 2019, through April 10, 2019, and did not include other amounts.

On February 19, 2020, the Wage & Hour Unit issued a determination finding Shortridge's claim was without merit. Following mediation efforts, the Wage & Hour Unit transferred the case to the Office of Administrative Hearings (OAH) on April 10, 2020.

The Hearing Officer conducted a hearing in this matter in Great Falls, Montana, on August 26, 2020. Shortridge appeared pro se. Jean Faure represented RMTC. Shortridge, Cheryl Voeller, and Jeff Quackenbush all testified under oath. Portions of the administrative record compiled at the Wage & Hour Unit were admitted into the record upon the agreement of the parties. Specifically,

documents 27-28, 55-67, 73-76, 83-88, 90-98, 125-133, 139-239, 246-249, and 288 were admitted. Documents 16-17 were rejected on the basis of hearsay and relevance. Claimant's exhibits 302, 304, and 305 were rejected on the basis of hearsay and relevance.

The parties requested the opportunity for post-hearing briefing. Upon the filing of the final brief on October 9, 2020, the record was closed and the case was deemed submitted. Based upon the evidence and argument adduced at hearing, the Hearing Officer makes the following findings of fact, conclusions of law, and final agency decision.

II. ISSUE

Whether RMTC owes wages for work performed, as alleged in the complaint filed by Shortridge, and owes penalties or liquidated damages, as provided by law.

III. FINDINGS OF FACT

1. Shortridge began working for Rocky Mountain Treatment Center in October, 2012.
2. RMTC, LLC, (RMTC) acquired ownership of Rocky Mountain Treatment Center on May 1, 2015. Shortridge remained on staff under the new ownership.
3. When RMTC, LLC, acquired ownership of Rocky Mountain Treatment Center, Shortridge became an employee of the new RMTC.
4. Shortridge's position with RMTC was that of a Licensed Addiction Counselor (LAC).
5. Shortridge did not have a contract with RMTC which expressly set forth her compensation arrangement.
6. From the start of her employment with RMTC through April, 2019, Shortridge personally recorded and signed her time daily on a timecard and submitted those timecards to RMTC on a weekly basis. (Exs. 187-239 (timecards covering 2017 through 2019).)
7. In one instance in March, 2018, Quackenbush disputed the legitimacy of Shortridge's time, but her time was not altered. (Ex. 212.) The parties also had a disagreement concerning overtime hours in March, 2019, but Shortridge was paid for those hours.

8. Shortridge's job description defined her compensation as hourly. (Exs. 27-28.) No other executed, written documentation evidences an agreement for RMTC to pay Shortridge in an alternative manner.

9. RMTC did sometimes compensate Shortridge for expenses not included in her hourly wages. This additional compensation included paying for personal truck repairs, veterinary expenses, massage, chiropractic care, farrier care, supplements, medications, pasture rent, and tack for the horses.

10. No evidence shows any agreement between RMTC and Shortridge to pay Shortridge on a piece rate basis.

11. Shortridge only determined she should be paid at a piece rate after her employment with RMTC ended. Shortridge had no agreement with RMTC, either written or verbal, to be paid a piece rate for her work.

12. A Personnel Action Form in Shortridge's employment file reflects the hourly pay rate set forth in Shortridge's job description. (Ex. 133.)

13. Shortridge's payroll history from 2015 through 2019 shows a history of hourly compensation.

14. Shortridge may have worked more hours than she reported on timecards during her tenure with RMTC. Shortridge has not, however, alleged she ever reported these hours to RMTC, that she was told not to report hours, or that she was unpaid for hours she did report. Furthermore, such hours are not part of Shortridge's wage claim, except to the extent they are covered by her piece rate claims. (Exs. 244-245.)

15. Beginning in November, 2018, Shortridge was compensated at a rate of \$20.20 per hour. (Ex. 133.)

16. RMTC provided Shortridge with an Employee Handbook (Handbook). She acknowledged this was the Handbook governing her employment. (Exs. 55-67.)

17. Pursuant to the Handbook, "After 6 months of continuous employment, full time employees will begin to accrue 0.0231 hours of paid personal leave for every hour worked per pay period. Personal leave only accrues on actual hours worked." (Ex. 58.) "Also, *at one year* of continuous employment, full time employees will *start* accruing 0.0385 hours of vacation time for every hour worked per pay period. Vacation time only accrues on actual hours worked." (Ex. 59 (emphasis in original).)

18. Upon resignation, accrued personal leave benefits were to be paid at one-quarter of an employee's salary/hourly wage, provided proper notice of resignation was given. (Ex. 58.)

19. Under the Handbook, upon voluntary or involuntary termination, employees were to be paid for accrued vacation time in their final paycheck. (Ex. 59.)

20. Shortridge's pay periods ran from the 11th through the 25th and the 26th through the 10th of each month. Paychecks were issued on the 15th and last day of each month. (Ex. 56.)

21. From 2017 through April 4, 2019, Shortridge received two paychecks per month from RMTC. (Exs. 139-186). Shortridge was paid for all hours she reported to RMTC as worked, including overtime. During her employment, Shortridge did not complain she was being improperly compensated.

22. Since 2014, RMTC utilized an equine therapy program with its clients. Shortridge worked in the equine therapy program.

23. Originally the horses were boarded at Ann Bellwood's property. After RMTC acquired the treatment center, the horses were moved to Eagle Mount for boarding. (Exs. 90-98.)

24. In April 2016, RMTC boarded two horses (Playgirl and Whiskey) at Eagle Mount. (Exs. 90-92.) In July 2016, RMTC added two horses (Bill and Wafer) to a revised Boarding Agreement. (Exs. 93-94.) The Boarding Agreement was an attachment to a Memorandum of Understanding, which itself contained an integration clause stating it was the entire agreement of the parties. (Ex. 98.)

25. Shortridge was identified as the "Owner" of the horses in the Boarding Agreements, but the Memorandum of Understanding regarding them was between RMTC and Eagle Mount. (Exs. 95-98.) RMTC paid Eagle Mount \$3,750.00 per month for boarding and use of Eagle Mount property.

26. Pursuant to the terms of the Boarding Agreement, if Shortridge's employment or business relationship with RMTC ended, the agreement would be in default and Shortridge, as the "Owner," had to make immediate arrangements to remove the horses from Eagle Mount property. (Ex. 91.)

27. In addition to space for the horses, parking was made available at Eagle Mount for Shortridge's horse trailer, and Shortridge stored saddles, saddle pads,

horse blankets, bridles, halters, leg wraps, grooming tools, a lunge whip, and boots for clients to use on location. Shortridge was responsible for grooming and exercising the horses.

28. Although Shortridge did regularly work with and train the horses, neither the Boarding Agreement nor the Memorandum of Understanding make any reference to a requirement for specialized training of the horses or payment for the same. Shortridge never discussed compensation for specialized training of the horses with RMTC, and had no agreement for such compensation.

29. In April, 2018, RMTC purchased two horses from Western Montana Equine Rescue and Rehab (Chex and Blu), which Shortridge acknowledged were an investment for the RMTC equine program. (Exs. 73-75, 83-88.)

30. Shortridge's last day of physical work was March 29, 2019, although her April 15, 2019, paycheck included compensation for 1.5 hours spent driving on March 31, 2019. (Exs. 103, 133, 139.)

31. On April 3, 2019, Shortridge dropped off two handwritten pages of paperwork to RMTC outlining an alternative employment arrangement she sought moving forward. (Exs. 127-128.) The documents reflect Shortridge's understanding of her compensation at the time: "continue at hourly wages with overtime." Although Shortridge referenced the horse program, she did not mention piece rate compensation or compensation for specialized training of horses.

32. In furtherance of seeking an alternative employment arrangement, Shortridge requested a meeting with Quackenbush on April 4, 2019. Quackenbush, Voeller, and Shortridge met, and Quackenbush and Shortridge discussed Items 1-8 of Shortridge's proposals, but reached no agreements. (Exs. 125-128.) Shortridge did not mention piece rate wages or compensation for specialized training of horses during the meeting.

33. Also at the April 4, 2019, meeting, Quackenbush asked Shortridge to return the horses, which had been taken out to pasture, back to Eagle Mount. Shortridge requested compensation for wages and mileage to transport the four horses back to Eagle Mount, for which Quackenbush agreed to compensate Shortridge at her regular rate of \$20.20/hour for her time and mileage. (Exs. 125-126.)

34. The agreement for RMTC to pay Shortridge mileage in addition to her time was unique to the discussions of April 4, 2019, and not a regular method by which Shortridge was paid.

35. Shortridge also requested a bill of sale for two horses, Chex and Blu, which Quackenbush denied.

36. The parties dispute ownership of the horses Bill, Wafer, Chex, and Blu. At the time of the hearing, Shortridge was only in possession of Bill and Wafer.

37. When Quackenbush would not agree to Shortridge's proposed terms, Shortridge offered alternative terms. (Exs. 129-130.) Under the new terms, Shortridge proposed she contract with RMTC. Quackenbush was unwilling to contract for Shortridge's services, and informed her she needed to remain as an employee to continue to do equine therapy.

38. When Quackenbush refused Shortridge's terms, Shortridge communicated she wished to resign, which Quackenbush requested she put in writing. Shortridge declined to do so at that time, and said she would provide a written resignation on Monday, April 8, 2019. Voeller also confirmed with Shortridge that she wished to resign. Shortridge then packed some items from her office and left RMTC.

39. The parties dispute whether Shortridge voluntarily resigned or was terminated. Shortridge asserts she was terminated, while RMTC asserts Shortridge voluntarily resigned.

40. As of March 29, 2019, Shortridge had a balance of 14.81 vacation hours. (Ex. 187.)

41. Pursuant to RMTC policy, which provides for payout of accrued but unused vacation, RMTC paid out Shortridge's vacation hours in her final paycheck. (Exs. 140, 187.)

42. Shortridge was not correctly paid the correct amounts of accrued vacation and personal leave in her final paycheck. At an hourly rate of \$20.20, Shortridge should have been paid an additional \$24.85 for 1.23 hours of vacation time and \$3.74 for 0.74 hours of personal leave, for a total of \$28.59.

IV. DISCUSSION

This case concerns claims that Shortridge performed work without proper compensation. An employee seeking unpaid wages has the initial burden of proving work performed without proper compensation. *America's Best Contractors, Inc. v. Singh*, 2014 MT 70, ¶ 25, 374 Mont. 254, 321 P.3d 95 (citing *Garsjo v. Dept. of Labor & Indus.*, 172 Mont. 182, 189, 562 P.2d 473, 476-77 (1977) (citing and adopting

Anderson v. Mt. Clemens Pottery Co., 328 U.S. 680, 687 (1946))) (other citations omitted).

To meet this burden, the employee must produce sufficient evidence showing the amount and extent of such work as a matter of just and reasonable inference. 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. 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*.

America's Best Contractors, Inc., ¶ 25 (internal citations omitted) (emphasis added). Employers are required to keep records of employees' hours. Admin. R. Mont. 24.16.6102(1)(g); *see also Arlington v. Miller's Trucking, Inc.*, 2015 MT 68, ¶ 16, 378 Mont. 324, 343 P.3d 1222 (citations omitted). "When an employer fails to record an employee's hours, the employee's records may be used to determine the amount of time worked." *Arlington*, ¶ 16.

If an employee has already left employment at the time a wage claim is filed, ". . . an 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). However, "[i]f an employer has engaged in repeated violations, an employee may recover wages and penalties . . . for a period of 3 years prior to the date of the employee's last date of employment." Mont. Code Ann. § 39-3-207(3).

A. Piece Rate Pay

Shortridge asserts she is due piece rate pay from April 1, 2017, through April 1, 2019, related to care of two horses for 24 months and two horses for 10 months, all at a rate of \$500.00 per horse. Shortridge does not make any allegation that RMTC failed to keep track of Shortridge's time or pay her for time reported. In fact, Shortridge readily admits that she regularly completed and submitted her own timesheets for the work she performed. Shortridge also admits she was paid for all work she reported, including hours on weekends and overtime. The issue here solely concerns work which Shortridge asserts was performed for the benefit of RMTC, and for which she should have been compensated on a piece rate basis.

Part of Shortridge's underlying argument for piece rate wages is that there was an implied agreement for additional pay in place based on the fact that RMTC did

pay for some of Shortridge's expenses that went above and beyond her hourly wage. For example, RMTC periodically paid for Shortridge's personal truck repairs as well as for horse care services and supplies. Also, at the April 4, 2019, meeting, Shortridge requested compensation for wages and mileage to transport the four horses back to Eagle Mount, to which Quackenbush agreed. Shortridge portrays these payments as an admission that RMTC agreed to pay for more than just her hourly rate. No evidence was presented at hearing of any such agreement, but these payments are not relevant to Shortridge's wage claim regardless. First and foremost, absent an argument that wages were less than minimum wage when taking expenses into account, reimbursement of supplies—which appears to cover the majority of categories of reimbursement cited by Shortridge—are not wages and are therefore outside the jurisdiction of this tribunal. *See* Mont. Code. Ann. § 39-51-201(25) (wages are remuneration payable for personal services, not including payments made for employee expense reimbursements or allowances); Admin. R. Mont. 24.16.2519(2)(a) ((regarding calculation of regular rate) payment for expenses are not compensation for services rendered); *see also, e.g., Pyle v. National Wine and Spirits Corp.*, 637 N.E. 2d 1298, 1300 (Ind. App, 1994) (for something to be recoverable under wage payment laws, it must have the character of compensation for work performed). Second, to the extent any of these categories could be considered wages, Shortridge does not directly seek reimbursement for them. Rather, she asserts she is due additional wages on a piece rate basis at a set rate—\$500.00 per horse,¹ per month.

Generally speaking, piece rate pay is based on the number of units of a product created by an employee. As such, payment of wages on a piece rate basis is not in addition to pay on an hourly basis. Rather, it is an alternative to hourly pay. *See Mont. Pub. Emps. Ass'n v. Mont. DOT*, 1998 MT 17, ¶ 13, 287 Mont. 229, 234, 954 P.2d 21, 24; Admin. R. Mont. 24.16.2512(2); *see also* 29 C.F.R. § 778.109. Thus, for Shortridge to claim she is due additional wages on a piece rate basis above and beyond her hourly wages is akin to claiming she should have been paid at a higher hourly rate. Failure to pay someone as much as they believe their time was worth is not generally compensable in a wage and hour proceeding. Nonetheless, this decision analyzes Shortridge's claims on the basis that Shortridge's claim is for additional work performed, not additional pay for hours already reported and paid out.

As stated, Shortridge readily admitted she had no agreement with RMTC to pay her on a piece rate basis, but asserts here that additional piece rate payment is

¹ The Hearing Officer will also note that, to the extent Shortridge may have personally owned any of the horses used by RMTC, remuneration related to those horses would not be through wages, but through contractual agreements.

appropriate for the kind of work she did on behalf of RMTC. Absent an agreement, there is generally no obligation but to pay minimum wage and overtime: “The obligation to pay wages only exists to the extent agreed upon between the employee and the employer.” *Harrell v. Farmers Educ. Coop. Union of Am.*, 2013 MT 367, ¶ 40, 373 Mont. 92, 314 P.3d 920. Shortridge does not assert a minimum wage or overtime violation, nor does she provide specific evidence as to any hours she worked for which she may have been uncompensated. Although the Hearing Officer understands the underlying logic of Shortridge’s claim is that she performed more work than she was paid for, Shortridge does not dispute that she always completed and turned in her own timesheets and was paid for all hours she reported on those timesheets. Furthermore, Shortridge’s entire argument rests on the basis that payment of piece rate wages would be fair and just, regardless of the absence of any agreement to pay such wages.

In lieu of any verbal or written agreement between the parties regarding piece rate pay, Shortridge is essentially making an equitable claim (i.e., a claim based not in contract, but in fairness) for unjust enrichment. Claims in equity are not wage claims. The Montana Supreme Court has adopted the definition of unjust enrichment from the American Jurisprudence encyclopedia of law:

. . . [Unjust enrichment] is defined as the unjust retention of a benefit to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience. A person is enriched if he has received a benefit, and he is unjustly enriched if retention of the benefit would be unjust. Unjust enrichment of a person occurs when he has and retains money or benefits which in justice and equity belong to another.

Lawrence v. Clepper, 263 Mont. 45, 53-54, 865 P.2d 1150, 1156 (1993) (quoting 66 Am. Jur. 2d Restitution and Implied Contracts §§ 3-4 (1973)). In her post-hearing briefing, Shortridge herself states that her claim is based on unjust enrichment: “RMTC was unjustly enriched and legally obligated to compensate Jessica for work performed.” (Shortridge FOFCOL, p. 7.) The Hearing Officer does not pass any judgment as to the merits of an unjust enrichment or other equitable claim, but merely concludes that such claims are not enforceable under the wage and hour laws and are therefore outside this tribunal’s jurisdiction.

In light of the foregoing, there is simply no basis to award piece rate wages to Shortridge in this wage and hour proceeding. The Hearing Officer cannot enforce a wage agreement for piece rate payment that did not exist during Shortridge’s employment. Because of the limited jurisdiction of this tribunal and the absence of

any evidence showing the existence of a piece rate wage agreement, Shortridge has not met her burden of proof with regard to piece rate wages.

B. Mileage²

Shortridge asserts she is owed reimbursement for mileage in the amount of \$5,726.09 from April 1, 2016, through April 8, 2019 (for 373 unloaded miles at \$1.25 per hour, 2,563 loaded miles at \$2.25 per hour, and with credits of \$506.91 for repairs made to her truck and paid by RMTC). As with Shortridge's piece rate claim, the time period here includes dates beyond the limits permitted based on a May 16, 2019, filing date of her claim. *See* Mont. Code Ann. § 39-3-207. The period of recovery is ultimately not an issue, however, because reimbursement for mileage is neither required nor is it considered wages.

Under the wage and hour laws, employees are only required to be reimbursed for time worked while driving, not separately for mileage. *See* Admin. R. Mont. 24.16.1010 (regarding payment of wages during travel time); *see also* Mont. Code Ann. § 39-51-201(25) (wages are for work performed and do not include expense reimbursements). While there are circumstances under which failure to reimburse for mileage could result in an employee earning less than minimum wage, Shortridge was earning well above minimum wage at all relevant times herein and has not asserted otherwise. And, to reiterate, Shortridge has not claimed she worked hours for which she was not paid. For these reasons, Shortridge's claim for mileage reimbursement must be denied.

C. Vacation and Sick Leave

Shortridge claims she is owed 1.23 hours of vacation and 6.71 hours of personal leave from March 26, 2019, through April 10, 2019, at her hourly rate of \$20.20 per hour. The underlying issue is that although RMTC did pay out some vacation and personal leave in her final check, it did not pay out the entire amount owed.

Pursuant to the Employee Handbook, Shortridge was accruing 0.0231 hours of paid personal leave and 0.0385 hours of vacation time for every hour worked per pay period. (Exs. 58, 59.) Given the circumstances of Shortridge's departure, accrued personal leave benefits were to be paid at one-quarter of her hourly wage, while vacation was to be paid out in full. (Exs. 58-59.)

² Shortridge's mileage claim was not included in her amended complaint with the Wage and Hour Unit, but because it is clear Shortridge intended to make it part of her claim at hearing, it is addressed herein as if properly raised.

Shortridge's paycheck dated March 29, 2019, shows vacation and personal leave balances of 14.81 hours and 7.95 hours, respectively. (Ex. 140.) On Shortridge's final check of April 15, 2019, RMTC paid out 14.81 hours of vacation and 1.99 hours of personal time (which, when rounded, is one-quarter of 7.95 hours). (Ex. 139.) On that same check, however—running from March 26, 2019, through April 10, 2019—it shows Shortridge worked 32.00 hours and had vacation and personal leave balances of 1.23 hours and 6.71 hours, respectively. (Ex. 139.) It does not show that any vacation or personal leave was taken during the period. RMTC asserts that Shortridge did not work after March 29, 2019, but regardless of its assertion, Shortridge's timesheet and paycheck indicate she worked and was paid for 32.00 hours from March 26, 2019, through March 31, 2019. (Exs. 139, 187.) So long as work hours were credited to Shortridge, she should have accrued vacation and personal leave time on those hours. In her final paycheck, there was no accrual on the 32.00 hours of wages paid out.

RMTC makes the argument that, at the rates of accrual set forth in the Handbook, Shortridge could not possibly have accrued the amount of leave claimed. While the Hearing Officer agrees with RMTC's logic to some extent, that logic is flawed because it is apparent RMTC only paid out amounts owed based on Shortridge's March 29, 2019, paycheck and did not pay out the additional amounts accrued during Shortridge's final pay period. The difficulty in reaching a conclusion about what amount is actually owed, though, arises from what appear to be erroneous calculations on the April 15, 2019, paycheck.

Aside from the error of failing to pay out the hours accrued during the final pay period, the Hearing Officer believes the numbers shown on the April 15, 2019, paycheck resulted from miscalculations due to the payout from the prior period. The accrued vacation time of 1.23 hours is correct ($0.0385 \times 32 = 1.32$). The personal leave time of 6.71 hours is incorrect, however, and appears to have resulted from erroneously carrying over the portion of accrued time not paid out on the prior check (since only 25% was paid out pursuant to the Handbook) ($(0.0231 \times 32 \text{ hours}) + (75\% \times 7.95 \text{ hours}) = \text{approx. } 6.71$).

Given that Shortridge was paid out the correct amounts owed her for vacation and personal leave based on her March 29, 2019, paycheck, the only issue concerns payment for the correct amounts accrued in her final pay period but not paid out. Since Shortridge was credited with working 32 hours, she earned 1.23 hours of vacation ($0.0385 \times 32.00 \text{ hours}$) and 0.74 hours of personal leave ($0.0231 \times 32.00 \text{ hours}$). At an hourly rate of \$20.20, this accrual should have resulted in an additional payout of \$24.85 for vacation time ($1.23 \text{ hours} \times \20.20) and \$3.74 for personal leave ($0.74 \text{ hours} \times \$20.20 \times 25\%$), for a total of \$28.59.

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

2. Shortridge may only recover wages for a period of two years prior to the date of her last date of employment. Mont. Code Ann. § 39-3-207(2).

3. Shortridge has failed to meet her burden of showing she had an agreement with RMTC to pay piece rate wages and that she is owed piece rate wages.

4. Shortridge is not entitled to reimbursement for mileage under Montana's wage and hour laws. *See* Admin. R. Mont. 24.16.1010; *see also* Mont. Code Ann. § 39-51-201(25).

5. Shortridge has shown by a preponderance of the evidence that she was not fully paid for accrued vacation and personal leave in her final paycheck. At an hourly rate of \$20.20, RMTC owes Shortridge \$24.85 for 1.23 hours of vacation time and \$3.74 for 0.74 hours of personal leave, for a total of \$28.59.

6. A 55% penalty of \$15.72 is imposed on the vacation and personal leave amounts due Shortridge. Admin. R. Mont. 24.16.7556(1)(a).

VI. ORDER

RMTC, LLC, is hereby ORDERED to tender a cashier's check or money order in the amount of \$44.31, representing wages and penalty, made payable to Jessica Shortridge, 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.

DATED this 16th day of April, 2021.

DEPARTMENT OF LABOR & INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

By: /s/ CHAD R. VANISKO
CHAD R. VANISKO
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.