

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

IN THE MATTER OF THE WAGE CLAIM)	Case No. 636-2022
OF LESLIE B. JOHNSTON,)	
)	
Claimant,)	ORDER GRANTING
)	SUMMARY JUDGMENT and
vs.)	FINAL AGENCY DECISION
)	
LENOVO (UNITED STATES), INC.,)	
)	
Respondent.)	

* * * * *

I. INTRODUCTION

Claimant Leslie B. Johnston (Johnston) filed a wage claim on June 18, 2021, alleging Lenovo (United States), Inc. (Lenovo) owed her a total of \$77,810.00 in vacation wages for the period of October 13, 2015 through August 31, 2020. On July 15, 2021, the Wage and Hour unit determined Johnston’s claim was not filed within the 180 day statute of limitations provided in Mont. Code Ann. §§ 39-3-207(1). Johnston appealed and the matter was transferred to the Office of Administrative Hearings on November 4, 2021.

On February 4, 2022, Lenovo filed a Motion for Summary Judgment. Lenovo argued Johnston failed to timely file her wage claim within the 180 day period required by Mont. Code Ann. § 39-3-207(1). Johnston responded, conceding Summary Judgment was appropriate based upon the facts and law presented. Lenovo’s Motion for Summary Judgment is granted based upon the facts and conclusions of law provided below. This Order constitutes the Final Agency Decision.

II. UNDISPUTED FACTS

1. Johnston’s last day worked for Lenovo was August 31, 2020.
2. On August 31, 2020, Johnston contacted the Montana Department of Labor and Industry and was advised employers must pay accrued vacation time upon

termination of employment. Johnston was advised how to file a wage claim during the August 31, 2020 discussion.

3. Johnston knew Lenovo was required to pay the accrued vacation time by September 15, 2020.

4. Lenovo did not pay Johnston accrued vacation time on or before September 15, 2020.

5. On June 18, 2021, the Montana Department of Labor and Industry received Johnston's Wage Claim Form seeking payment for accrued vacation, 276 days after September 15, 2020.

III. DISCUSSION

A. Summary Judgment

The Office of Administrative Hearings applies the Montana Rules of Civil Procedure to contested decisions under Admin. R. Mont. 24.8.704. Summary Judgment is appropriate when "there is no genuine issue as to any material fact" and "the movant is entitled to judgment as a matter of law." Mont. R. Civ. P. 56(c)(3). The moving party "must show a complete absence of any genuine issue as to all facts shown to be material in light of the substantive principle that entitles that party to a judgment as a matter of law." *Bonilla v. University of Montana*, 2005 MT 183, ¶ 11, 328 Mont. 41, 116 P.3d 823.

B. Statute of Limitation

Mont. Code Ann. § 39-3-207 provides 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." A wage claim accrues on the last date on which an employer fails to pay. *Harrell v. Farmers Educ. Coop. Union*, 2013 MT 367, ¶ 29, 373 Mont. 92, 314 P.3d 920 (citing *Miller v. State*, 2009 MT 246, ¶ 11, 351 Mont. 443, 214 P.3d 1227). Mont. Code Ann. § 39-3-205(2) provides "when an employee separates from the employ of an employer, all the unpaid wages of the employee are due and payable on the next regular payday for the pay period during which the employee was separated from employment or 15 days from the date of separation from employment, whichever occurs first."

Johnston separated from employment with Lenovo on August 31, 2020. Mont. Code Ann. § 39-3-205(2) required Lenovo pay all wages on or before September 15, 2020, 15 days from Johnston's date of separation from employment. Johnston's wage claim accrued on September 15, 2020. The statute of limitations expired on Johnston's wage claim 180 days after September 15, 2020. Johnston's June 18, 2021 wage claim was filed 276 days after September 15, 2020 or 96 days after the statute of limitations expired. Therefore, Johnston's wage claim is barred under Mont. Code Ann. § 39-3-207.

The parties agree Johnston's wage claim was filed after the statute of limitations expired and that Lenovo is entitled to judgment as a matter of law. No genuine issue of material fact exists that would entitle Johnston to a denial of the motion. Lenovo is entitled to judgment as a matter of law. Summary judgment is granted to Lenovo and Johnston's claim is dismissed with prejudice.

DATED this 22nd day of March, 2022.

DEPARTMENT OF LABOR & INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

By: /s/ JUDY BOVINGTON
JUDY BOVINGTON
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