

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON

In re: Vat's Corner Market, a Partnership of
Ajay Vatsa and Subhash Vatsa,

Citation and Notice of Assessment
No. 59725

OAH Docket No. 11-2020-LI-01540

No. 2022-004-WPA

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

Joel Sacks, Director of the Washington State Department of Labor & Industries, having considered the Initial Order served on August 9, 2021, having considered the petition for review filed by Vat's Corner Market, a Partnership of Ajay Vatsa and Subhash Vatsa (the Appellant), briefing submitted to the Director's Office, and having reviewed the record created at hearing and the records and files herein, issues this Director's Order.

The Director makes the following Findings of Fact, Conclusions of Law, and Final Decision and Order.

I. FINDINGS OF FACT

1. The Office of Administrative Hearings issued and served the Initial Order on August 9, 2021, and the Appellant timely filed a petition for administrative review.
2. The Director adopts and incorporates all the Initial Order's findings of facts.

II. CONCLUSIONS OF LAW

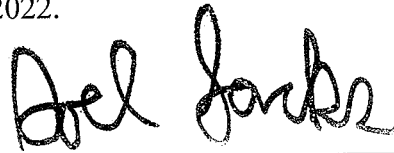
1. Based on the Appellant's timely filed petition for review, there is authority to review and decide this matter under RCW 49.48.084 and RCW 34.05.

2. I have considered the findings and conclusions of the Initial Order, which correctly analyze the legal issues in this appeal and adopt and incorporate all the Initial Order's conclusions of law and "initial order" section.

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusion of Law, the Citation and Notice of Assessment No. 59725 is affirmed. The Initial Order of August 9, 2021 is incorporated by reference herein.

DATED at Tumwater this 18 day of January 2022.



JOEL SACKS
Director

SERVICE

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

APPEAL RIGHTS

Reconsideration. Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order **or** (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing, or by emailing to DirectorAppeal@LNI.WA.GOV, or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

NOTE: A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition **or** (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

Judicial Review. Any petition for judicial review must be filed with the appropriate court and served within 30 days after service of this Order. RCW 34.05.542. RCW 49.48.084(5) provides, "Orders that are not appealed within the time period specified in this section and Chapter 34.05 RCW are final and binding, and not subject to further appeal." Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.

DECLARATION OF MAILING

I, Lisa Deck, hereby declare under penalty of perjury under the laws of the State of Washington, that the DIRECTOR'S ORDER was mailed on the 18 day of January 2022, via U.S. Mail, postage prepaid, and via email to the following:

Vat's Corner Market
c/o Ajay and Subhash Vatsa
PO Box 65156
Seattle, WA 98155
ajay.vatsa@gmail.com
parveen.vatsa@gmail.com

Raquel Cordova
403 Contra Costa Avenue
Fircrest, WA 98466
cordovaraq91@gmail.com

Ryan Gompertz, AAG
Office of the Attorney General
800 Fifth Ave., Suite 2000
Seattle, WA 98104
ryan.gompertz@atg.wa.gov
angie.faulkner@atg.wa.gov
lniseaeservice@atg.wa.gov

DATED this 18 day of January 2022, at Tumwater, Washington.


LISA DECK

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Docket No. 11-2020-LI-01540

Vat's Corner Market, a Partnership of
Ajay Vatsa and Subhash Vatsa,

INITIAL ORDER

Appellant/Employer.

Agency: Labor and Industries
Program: Wage Payments
Agency No. 59725

1. ISSUES:

- 1.1. Whether Vat's Corner Market failed to pay Raquel Cordova for 96 hours worked from September 15, 2019 to September 30, 2019, at an agreed, regular rate of pay of \$12.35 per hour and failed to pay Ms. Cordova for 30.97 overtime hours worked over the same period, at an overtime rate of \$18.52, for a total of \$1,759.47, in violation of Revised Code of Washington (RCW) 49.48.050?
- 1.2. Whether Vat's Corner Market failed to provide a final paycheck to Raquel Cordova for work performed from January 1, 2020 to January 17, 2020 for 78 hours worked at a rate of \$13.75 per hour, minus a \$750 loan deduction, for a total of \$322.50, in violation of RCW 49.48.010?
- 1.3. Whether Vat's Corner Market should be assessed unpaid wages totaling at least \$2,081.97 and interest of at least \$192.92, as provided by RCW 49.38.110, RCW 49.48.010 and RCW 49.48.083(2)?
- 1.4. Whether Vat's Corner Market should be assessed penalties totaling at least \$1,000.00, as provided by RCW 49.48.083?
- 1.5. Whether Vat's Corner Market should be assessed interest on the unpaid wages, at a rate of one percent of the unpaid wage amount per month from the date of the Citation and Notice of Assessment until payment is received by the Department, as provided by RCW 49.48.083(2)?
- 1.6. Whether the Department of Labor and Industries' 'Citation and Notice of Assessment No. 59725', dated July 16, 2020, should be affirmed, modified or set aside?

[Continued]

2. INITIAL ORDER SUMMARY:

- 2.1. Vat's Corner Market failed to pay Raquel Cordova for 96 hours worked from September 15, 2019 to September 30, 2019, at an agreed, regular rate of pay of \$12.35 per hour and failed to pay Ms. Cordova for 30.97 overtime hours worked over the same period, at an overtime rate of \$18.52, for a total of \$1,759.47, in violation of RCW 49.48.050.
- 2.2. Vat's Corner Market failed to provide a final paycheck to Raquel Cordova for work performed from January 1, 2020 to January 17, 2020 for 78 hours worked at a rate of \$13.75 per hour, minus a \$750 loan deduction, for a total of \$322.50, in violation of RCW 49.48.010.
- 2.3. An assessment of unpaid wages totaling at least \$2,081.97 and interest of at least \$192.92, against Vat's Corner Market, as provided by RCW 49.38.110, RCW 49.48.010 and RCW 49.48.083(2), is **APPROPRIATE**.
- 2.4. An assessment of penalties, totaling at least \$1,000.00, against Vat's Corner Market as provided by RCW 49.48.083, is **APPROPRIATE**.
- 2.5. An assessment of interest on the unpaid wages, at a rate of one percent of the unpaid wage amount per month from the date of the Citation and Notice of Assessment until payment is received by the Department, as provided by RCW 49.48.083(2), is **APPROPRIATE**.
- 2.6. The Department of Labor and Industries' 'Citation and Notice of Assessment No. 59725', dated July 16, 2020, is **AFFIRMED**.

3. EVIDENTIARY HEARING:

- 3.1. Hearing Date: Monday, June 7, 2021
- 3.2. Admin. Judge: TJ Martin
- 3.3. Appellant: Vat's Corner Market, a partnership of Ajay Vatsa and Subhash Vatsa (Appellant/Employer)
 - 3.3.1. Representative: Ajay Vatsa, Owner
 - 3.3.2. Witness: Ajay Vatsa, Owner
- 3.4. Agency: Department of Labor and Industries (Department)
 - 3.4.1. Representative: Ryan Gompertz, Assistant Attorney General
 - 3.4.2. Witnesses: Suzanna Dover, Department Industrial Relations Agent
Raquel Cordova, Wage Claimant
- 3.5. Observing: Parveen Vatsa, Ajay Vatsa's spouse

3.6. Exhibits: Department's Exhibits 1 through 13 were admitted. Appellant's Exhibits 1-13 were not admitted, since they were not provided to the Department until the hearing.

4. FINDINGS OF FACT:

The following 'Findings of Fact' are established by a 'preponderance of the evidence':

Jurisdiction-

- 4.1. On July 16, 2020, the Department of Labor and Industries (Department) issued 'Citation and Notice of Assessment No. 59725' to Vat's Corner Market, a partnership of Ajay Vatsa and Subhash Vatsa (Appellant/Employer), finding it owed Raquel Cordova (Wage Claimant) agreed wages of \$1,759.47 and final wages of \$322.50, interest of \$192.92, and a penalty of \$1,000.00, for a total of \$3,274.89. *Testimony of Suzanne Dover (Testimony of Dover) and Department Exhibit (Ex.) 1.*
- 4.2. On August 5, 2020, Vat's Corner Market appealed the Department's Citation and Notice of Assessment.

Raquel Cordova's Employment with Vat's Corner Market-

- 4.3. In August 2016, the Wage Claimant, Raquel Cordova (Cordova), began working as a cashier for the Employer, Vat's Corner Market (Vat's). *Testimony of Raquel Cordova (Testimony of Cordova).*
- 4.4. Vat's Corner Market, located at 4002 McKinley Avenue, Tacoma, Washington, is owned and operated as a partnership by Ajay Vatsa and his father, Subhash Vatsa. *Testimony of Ajay Vatsa (Testimony of Vatsa) and Ex. 2; Pg. 6-8.*
- 4.5. At the start of her employment, in 2016, Vat's Corner Market paid Cordova Minimum Wage of \$9.47 per hour. At the conclusion of her employment, Vat's was paying Cordova \$12.35 per hour. *Testimony of Cordova and Ex. 8.*
- 4.6. Cordova had a split shift schedule, working in the mornings and evenings. Cordova's morning supervisor was Ajay Vatsa's father, Subhash Vatsa. In the evening, Ajay Vatsa supervised Cordova. *Testimony of Cordova.*
- 4.7. Cordova tracked her work hours with the Employer's 'Homebase' computer program. She also wrote down her regular and overtime hours on a monthly calendar. She was paid every two weeks. *Testimony of Cordova.*
- 4.8. From September 15, 2019 to September 30, 2019, Raquel Cordova worked 96 hours at an agreed rate of \$12.35 per hour and 30.97 hours at an overtime rate of \$18.52 hours. *Testimony of Cordova and Ex. 3, Ex. 8; Pgs. 17 & 20.*

- 4.9. Cordova did not receive a paycheck, for the period of September 15, 2019 to September 30, 2019. *Testimony of Cordova.*
- 4.10. Cordova's lack of a paycheck from September 15, 2019 to September 30, 2019, was due to the Employer withholding her paycheck, via a garnishment, to recoup a loss due to fraudulent credit card activity occurring at the Employer's store on September 14, 2019, when Cordova was working. *Testimony of Cordova and Testimony of Vatsa.*
- 4.11. Cordova originally agreed to the Employer withholding her wages from September 15, 2019 to September 30, 2019, due to the fraudulent credit cards activities by a customer. However, after speaking with an attorney, she objected to the Employer withholding her wages. *Testimony of Cordova.*
- 4.12. On or around September 2019, Vat's Corner Market stopped using the 'Homebase' system to track employee work hours since the Employer did not want to pay for the program any longer. *Testimony of Ajay Vatsa (Testimony of Vatsa).*
- 4.13. Despite the Homebase program being discontinued, Cordova continued to track her hours worked on her own monthly calendar. *Testimony of Cordova.*
- 4.14. From January 1, 2020 to January 17, 2020, Cordova worked 78 hours, at an agreed rate of \$13.75 per hour. *Testimony of Cordova and Ex. 3 and Ex. 8; Pg. 19-20.*
- 4.15. She did not receive a final paycheck for her work from January 1, 2020 to January 17, 2020. *Testimony of Cordova.*
- 4.16. Ajay Vatsa, on behalf of Vat's Corner Market, withheld Cordova's paycheck for January 1, 2020 to January 17, 2020, for the outstanding debt the Employer believed Cordova still owed. *Testimony of Vatsa.*
- 4.17. On January 17, 2020, Cordova worked her last day for Vat's Corner Market. *Testimony of Cordova.*
- 4.18. Cordova admitted and acknowledged receiving a \$750 loan from the Ajay Vatsa, which had not been paid back. *Testimony of Cordova.*

Department's Wage Complaint Investigation-

- 4.19. On February 11, 2020, Raquel Cordova (Cordova) filed a 'Worker Rights Complaint' with the Department of Labor and Industries, alleging unpaid wages, from the periods of September 15, 2019 to September 30, 2019 and January 1, 2020 to January 17, 2020, from her former employer, Vat's Corner Market. *Testimony of Cordova, Testimony of Suzanne Dover (Testimony of Dover) and Ex. 4.*
- 4.20. From February 12, 2020 to June 3, 2020, Department Industrial Relations Agent Suzanne Dover (Agent Dover) investigated Raquel Cordova's wage claimant. *Testimony of Dover and Ex. 3.*

- 4.21. Department Industrial Agent Dover sent correspondence to Wage Claimant, Raquel Cordova, and Employer, Vat's Corner Market, seeking documentation, including payroll records and any other information the parties could provide regarding Cordova's wage complaint. *Testimony of Dover and Exhibits (Exs.) 5-12.*
- 4.22. Cordova provided the Department with her responses to the Department's 'Supervisor/Ownership Questionnaire', copies of her paystubs and a reconstruction of her hours worked. *Testimony of Dover and Ex. 8.*
- 4.23. Cordova provided her paystubs. However no paystubs were provided by Vat's Corner Market for the last half month of September 2019 and first half of January 2020 since Cordova was not paid during those two periods. *Testimony of Dover.*
- 4.24. Vat's Corner Market did not provide Cordova's 'hour worked' by means of the 'Home base' tracking system or any other reporting system. *Testimony of Dover.*
- 4.25. In reconstructing Cordova's 'hours worked', the Department relied on Cordova's hand-written calendar and records, since Vat's Corner Market, did not provide any timecards or payroll records. *Testimony of Dover.*
- 4.26. Vat's Corner Market did not provide any documented proof of wage payments made to Cordova during the periods at issue. *Testimony of Dover.*
- 4.27. Vat's Corner Market did respond, via email, to the wage complaint, but did not provide records of Cordova's 'Hours Worked'. *Testimony of Dover and Ex. 7.*
- 4.28. Vat's Corner Market provided 13 exhibits at the time of the evidentiary hearing. However, these exhibits were never provided to the Department during its investigation of Cordova's Wage Complaint. *Testimony of Dover.*
- 4.29. On April 7, 2020, Department Industrial Relations Agent Dover sent a 'Notice of Extension' to Cordova and Vat's requesting an additional 75 days to complete her investigation since she was still waiting for a response from Vat's regarding Cordova's Wage Complaint. *Testimony of Dover and Ex. 12; Pg. 1.*
- 4.30. In April and May 2020, Department Agent Dover sent two demand letters to Vat's Corner Market for wages owed to Cordova. *Testimony of Dover.*
- 4.31. Based on the information submitted by Cordova and Vat's, Agent Dover completed 'Agreed Wage Interest Calculation', 'Final Wage Interest Calculation', 'Wage Transcription Sheet' and 'Wage Calculation Sheet'. *Testimony of Dover and Ex. 13.*
- 4.32. On June 3, 2020, Agent Dover sent a 'Second Extension' letter to Cordova and Vat's informing the parties the case had been sent to the Central Office for final review. *Testimony of Dover and Ex. 12; Pg. 2.*

- 4.33. While the Employer contends the Wage Claimant was fired, rather than voluntarily quit, such an issue is irrelevant for purposes of determining whether unpaid wages were owed to Cordova. *Testimony of Dover.*
- 4.34. In addition, Vat's Corner Market argued Cordova engaged in theft by allowing fraudulent credit cards to be used on September 14, 2019. However, the Department lacked jurisdiction to investigate the allegation. *Testimony of Dover.*
- 4.35. On June 3, 2020, Department Industrial Relations Agent Suzanne Dover completed an 'Agent Summary', outlining the results of her investigation of Cordova's Wage Complaint. *Testimony of Dover and Ex. 2.*
- 4.36. On July 16, 2020, based on Dover's investigation, the Department issued 'Citation and Notice of Assessment No. 59725' to the Employer, Vat's Corner Market, finding it owed the Wage Claimant, Raquel Cordova agreed wages of \$1,759.47 and final wages of \$322.50, interest of \$192.92, and a penalty of \$1,000.00, for a total of \$3,274.89. *Testimony of Dover and Ex. 1.*
- 4.37. The Department's calculation of wages owed by Vat's Corner Market to Cordova deducted the \$750 loan which Cordova acknowledged she had not paid back. *Testimony of Dover.*

5. CONCLUSIONS OF LAW:

Based upon the above 'Findings of Fact', the following 'Conclusions of Law' are made:

Jurisdiction-

- 5.1. The undersigned administrative law judge has jurisdiction over the persons and subject matter of the present case based on RCW 49.48.084(3) and Chapters 34.05 and 34.12 RCW.

Standard and Burden of Proof Challenging a 'Citation and Notice of Assessment'-

- 5.2. In contesting a Citation and Notice of Assessment, the appealing party has the burden of proof, to establish by a 'preponderance of the evidence', the Department's Citation and Notice of Assessment is in error.
- 5.3. In the present case, the Appellant/Employer, Vat's Corner Market, has the burden of proof to establish, by a 'preponderance of the evidence', the Department's 'Citation and Notice of Assessment No. 59725' is in error.

Raquel Cordova's Worker Rights Complaint-

- 5.4. The Department of Labor & Industries (Department) is responsible for implementing and enforcing the provisions of Chapters 49.46, 49.48 and 49.52 of the RCW and Title 296 Washington Administrative Code (WAC), pertaining to wages, for the purpose of protecting the immediate and future health, safety, and welfare of the people of the State of Washington.

- 5.5. The Department's authority includes enforcing wage payments such as:
(a) Payment of minimum wages (RCW 49.46.020 and Chapter 296-128 WAC);
(b) Payment of overtime wages in excess of more than 40 hours of work in a week (RCW 49.46.13); (c) Payment of final wages (RCW 49.48.010); and (d) Withholding of lawful deductions from wages (RCW 49.52.060); and (e) Enforcement of any wages as authorized by statute, ordinance, and/or contract (RCW 49.52.050).
- 5.6. If an employee files a wage complaint, the Department is required to investigate. RCW 49.48.083(1) and WAC 296-128-820.
- 5.7. In the present case, on February 11, 2020, Raquel Cordova filed a 'Worker's Rights Complaint', alleging unpaid agreed and final wages from Vat's Corner Market. Therefore, the Department was required to investigate, based on RCW 49.48.083(1) and WAC 296-128-820.

Record-Keeping Requirement-

- 5.8. In the State of Washington, employers are subject to the State's Minimum Wage Act (MWA) and are required to keep and preserve records of employees, including the rate of pay, amount paid per pay period and hours worked. Employers must track employee hours even if they are considered 'exempt', salaried employees, for purposes of sick leave and other covered absences. RCW 49.46.040(3), RCW 49.46.070 and WAC 296-128-010.
- 5.9. Under the Federal Fair Labor Standards ACT (FLSA) 29 U.S.C. Sec. 211(c), employers are required to keep record of employee wages and hours worked.
- 5.10. In a wage complaint, the employee must provide records of pay and the number of hours worked. After providing such documentation, the burden shifts to the employer to refute such records. *MacSuga v. City of Spokane*, 97 Wn. App 435 (1999).
- 5.11. RCW 49.48.084(6) provides:

An employer who fails to allow adequate inspection of records in an investigation by the department under this chapter within a reasonable time period may not use such records in any appeal under this section to challenge the correctness of any determination by the department of wages owed or penalty assessed.

RCW 49.48.084(6).
- 5.12. Further, Washington Administrative Code (WAC) 296-186-025 requires employers to keep and make accessible all employment records for Department inspection.
- 5.13. In the present case, the Employer, Vat's Corner Market, failed to provide timekeeping, payroll or any other records demonstrating the 'hours worked' by the Wage Claimant, Raquel Cordova. Therefore, the Employer failed to meet its burden by demonstrating the Wage Claimant had been paid for all hours worked.

Vat's Corner Market's Failure to Pay Raquel Cordova Agreed Wages-

- 5.14. Any employer who pays an employee less than wages to which such employee is entitled shall be liable to such employee for the full amount of such wages. RCW 49.46.090(1).
- 5.15. It is a violation to pay an employee a lower wage than the wage an employer is obligated to pay by any statute, ordinance, or contract. RCW 49.52.050(2).
- 5.16. At the evidentiary hearing, Vat's Corner Market argued Raquel Cordova, in owing a \$750 loan to the Employer, was an 'exempt' employee. However, the Employer provided no legal basis for the assertion. Further, the Employer failed to provide a legal a basis for the informal garnishment the Employer took from the Wage Claimant's pay during the period of September 15, 2019 to September 30, 2019.
- 5.17. Therefore, the Department has established, by a 'preponderance of the evidence', which the Employer was unable to refute, that Vat's Corner Market failed to pay Raquel Cordova for 96 hours worked from September 15, 2019 to September 30, 2019, at an agreed, regular rate of pay of \$12.35 per hour and failed to pay Raquel Cordova for 30.97 overtime hours worked over the same period, at an overtime rate of \$18.52, for a total of \$1,759.47, in violation of RCW 49.48.050.

Vat's Corner Market's Failure to Pay Final Wages-

- 5.18. RCW 49.48.010 requires employers to pay employees for work performed at the end of the established pay period.
- 5.19. RCW 49.48.083(2) also establishes the Department may order an employer to pay all wages owed, if the employer has violated any wage payment requirement.
- 5.20. In the present case, the Department has established, by a 'preponderance of the evidence', which the Employer was unable to refute, that Vat's Corner Market failed to provide a final paycheck to Raquel Cordova for work performed from January 1, 2020 to January 17, 2020 for 78 hours worked at a rate of \$13.75 per hour, minus a \$750 loan deduction, for a total of \$322.50, in violation of RCW 49.48.010.

Penalty for Willful Violation-

- 5.21. RCW 49.52.050(2) makes it a penalty to:

Willfully and with intent to deprive the employee of any part of his or her wages, shall pay any employee a lower wage than the wage such employer is obligated to pay such employee by any statute, ordinance, or contract.

RCW 49.52.050(2).

5.22. Further, RCW 49.48.083(3) establishes:

(3) If the department determines that the violation of the wage payment requirement was a willful violation, the department also may order the employer to pay the department a civil penalty as specified in (a) of this subsection.

(a) A civil penalty for a willful violation of a wage payment requirement shall be not less than one thousand dollars or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a willful violation of a wage payment requirement shall be twenty thousand dollars.

RCW 49.48.083(3).

5.23. RCW 49.48.082(13) defines "willful" as a "[K]nowing and intentional action that is neither accidental nor the result of a bona fide dispute, as evaluated under the standards applicable to wage payment violations under RCW 49.52.050(2)."

5.24. Further, an employer acts 'willfully' in depriving a worker of earned wages when the employer makes "no genuine effort to keep a proper record of their payroll account with the employee or to determine by audit the correct amount of wages owed to the employee". *Brandt v. Impero*, 1 Wn. App. 678, 463 P.2d 197 (1969).

5.25. The evidence must establish the failure to pay by the employer was 'willful' in that it was 'knowing and intentional' and not the result of a bona fide dispute regarding the contested wages. *Pope v. University of Wash.*, 121 Wn.2d 479 (1993).

5.26. In the present case, the Employer, Vat's Corner Market, failed to pay agreed and final wages to Raquel Cordova, for the period of September 15, 2019 to September 30, 2019 and for January 1, 2020 to January 17, 2020, in violation of RCW 49.52.050. Such a failure to pay was 'willful' since it did not involve a bone fide dispute regarding such wages.

5.27. Therefore, an assessment of penalties totaling at least \$1,000.00, as provided by RCW 49.48.083, is **APPROPRIATE**.

Interest on Unpaid Wages-

5.28. Unpaid wages may accrue interest at the rate of 1% of the unpaid wage amount until payment is received by the Department, calculated from the first date wages were owed to the employee. RCW 49.48.083(2).

5.29. In the present matter, interest of \$192.92, will continue to accrue at the same rate of one percent (1%) until such time Vat's Corner Market has satisfied all unpaid wages due and owing to Raquel Cordova. Therefore, the assessment on interest, at a rate of one percent (1%) on the unpaid wages, as provided by RCW 49.48.083(2), is **APPROPRIATE**.


5.30. The Department of Labor and Industries' 'Citation and Notice of Assessment No. 59725', dated July 16, 2020, is **AFFIRMED**.

6. INITIAL ORDER:

THIS ADMINISTRATIVE COURT ORDERS:

- 6.1. Vat's Corner Market failed to pay Raquel Cordova for 96 hours worked from September 15, 2019 to September 30, 2019, at an agreed, regular rate of pay of \$12.35 per hour and failed to pay Ms. Cordova for 30.97 overtime hours worked over the same period, at an overtime rate of \$18.52, for a total of \$1,759.47, in violation of RCW 49.48.050.
- 6.2. Vat's Corner Market failed to provide a final paycheck to Raquel Cordova for work performed from January 1, 2020 to January 17, 2020 for 78 hours worked at a rate of \$13.75 per hour, minus a \$750 loan deduction, for a total of \$322.50, in violation of RCW 49.48.010.
- 6.3. An assessment of unpaid wages totaling at least \$2,081.97 and interest of at least \$192.92, against Vat's Corner Market, as provided by RCW 49.38.110, RCW 49.48.010 and RCW 49.48.083(2), is **APPROPRIATE**.
- 6.4. An assessment of penalties, totaling at least \$1,000.00, against Vat's Corner Market as provided by RCW 49.48.083, is **APPROPRIATE**.
- 6.5. An assessment of interest on the unpaid wages, at a rate of one percent of the unpaid wage amount per month from the date of the Citation and Notice of Assessment until payment is received by the Department, as provided by RCW 49.48.083(2), is **APPROPRIATE**.
- 6.6. The Department of Labor and Industries' 'Citation and Notice of Assessment No. 59725', dated July 16, 2020, is **AFFIRMED**.

Issued from Tacoma, Washington on the date of mailing.



TJ Martin
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF SERVICE ATTACHED

PETITION FOR REVIEW

Any party that disputes this Initial Order may file a Petition for Administrative Review with the Director of the Department of Labor and Industries.¹ You may e-mail your Petition for Administrative Review to the Director at directorappeal@lni.wa.gov. You may also mail or deliver your Petition for Administrative Review to the Director at the Department's physical address listed below.

Mailing Address:

Director
Department of Labor and Industries
PO Box 44001
Olympia, WA 98504-4001

Physical Address:

7273 Linderson Way SW
Tumwater, WA 98501

If you e-mail your Petition for Administrative Review, please do not mail or deliver a paper copy to the Director.

Whether you e-mail, mail or deliver the Petition for Administrative Review, the Director *must actually receive* the Petition for Administrative Review during office hours at the Director's office within 30 days of the date this Initial Order was mailed to the parties. You must also provide a copy of your Petition for Administrative Review to the other parties at the same time.

If the Director does not receive a Petition for Administrative Review within 30 days from the date of the Initial Order, the Initial Order shall become final with no further right to appeal.²

If you timely file a Petition for Administrative Review, the Director will conduct an administrative review under chapter 34.05 RCW.

¹ RCW 49.48.084 and RCW 34.05.464.

² RCW 49.48.084 and Chapter 34.05 RCW.

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 11-2020-LI-01540

I certify that true copies of this document were served from Tacoma, Washington via Consolidated Mail Services upon the following as indicated:

<p>Vat's Corner Market, a Partnership c/o Ajay and Subhash Vatsa PO Box 65156 Seattle, WA 98155 Appellant/Employer</p>	<p><input checked="" type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Certified Mail, Return Receipt 9489 0090 0027 6102 1673 57 <input type="checkbox"/> Campus Mail <input type="checkbox"/> E-mail: ajay.vatsa@gmail.com</p>
<p>Ryan Gompertz, AAG Office of the Attorney General MS: TB-14 800 5th Ave Suite 2000 Seattle, WA 98104 Agency Representative</p>	<p><input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input checked="" type="checkbox"/> E-mail: ryan.gompertz@atg.wa.gov Rachel.Thornton@atg.wa.gov Iniseaeservice@ATG.WA.GOV</p>
<p>Raquel Cordova 403 Contra Costa Avenue Fircrest, WA 98466 Intervenor/Wage Claimant</p>	<p><input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> E-mail: cordovaraq91@gmail.com</p>

Date: Monday, August 9, 2021

OFFICE OF ADMINISTRATIVE HEARINGS

Ashleigh H. Vandeyacht

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Legal Assistant 4