

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON

In re: LTT International Inc. dba Loomis
Truck & Tractor Inc. and Wes Loomis, as an
individual,

Citation and Notice of Assessment No.
W-132-16

OAH Docket No. 01-2016-LI-00016

No. 2017-007-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 September 13, 2016, having considered the petition for review filed by LTT International Inc. dba Loomis Truck & Tractor Inc. (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. This Order intends to resolve the contested issue of whether the Appellant paid all wages due to Dustin Reiber in violation of the wage payment and minimum wage laws. **The Appellant is ordered to pay wages to Dustin Reiber in the amount of \$721.56. The Appellant is also ordered to pay interest in the amount of one percent per month under RCW 49.48.083(2) for these wages except for the time period of September 13, 2016, to the date this order is served. The Appellant is ordered to pay the Department a penalty in the amount of \$1,000.**

The parties in this matter are the Department of Labor & Industries (Department) and the Appellant.

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 September 13, 2016, following a hearing that was held on September 7, 2016. The Initial Order affirmed as amended the Department's Citation and Notice of Assessment W-132-16.

2. On October 7, 2016, the Appellant timely filed a petition for review with the Director. On November 17, 2016, the Appellant filed an opening brief.

3. On January 17, 2017, the Department filed a response brief.

4. The Appellant filed no reply brief, despite being afforded an opportunity to do so by the briefing schedule set forth in this matter, and the record closed February 17, 2017.

5. Before the hearing at Office of Administrative Hearings, the Appellant mailed a copy of a subpoena to William Adam, who is an employee of the Attorney General's Office. The subpoena was not signed by an attorney or issued by a court. The Department moved to quash the subpoena, which was granted by the Administrative Law Judge by order dated September 1, 2016.

6. Before the hearing, the Appellant filed a "Motion to Amend Answer to Include Counterclaim for L&I to Collect," dated May 20, 2016. The Appellant claims in its petition for review that the Administrative Law Judge failed to address this motion.

7. Prior to the hearing, the Appellant submitted a brief to the Administrative Law Judge that was dated August 26, 2016, and was characterized by the Appellant as a summary

judgment motion. The brief was not submitted within 28 days of the hearing. The Appellant claims in its petition for review that the Administrative Law Judge failed to address this motion.

8. The Director adopts and incorporates all the Initial Order's findings of facts.

9. The Director adopts and incorporates the Initial Order's "Issues Presented," the "Order Summary," and the "Hearing" summary.

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. The Department's motion to quash the Appellant's subpoena of William Adam was properly granted. Mr. Adam was not properly served with a subpoena in accordance with RCW 34.05.446 and Civil Rule 45.

3. The Appellant's "Motion to Amend Answer to Include Counterclaim for L&I to Collect," dated May 20, 2016, without further explanation or argument from the Appellant, raises no material error based on my review in this matter. To the extent the motion attempts to assert a counterclaim against the Department or any other person, there is no such authority under the Wage Payment Act. In any event, the motion essentially asserts allegations and arguments related to supposed overpayments made to the wage claimant in this matter. These issues were properly addressed and correctly analyzed within the finding and conclusions of the Initial Order.

4. The Appellant's brief to the Administrative Law Judge that was dated August 26, 2016, and characterized by the Appellant as a summary judgment motion, raises no material error based on my review in this matter. To the extent the brief can be construed as a summary judgment motion, it failed to comply with the requirements of Civil Rule 56, which requires filing at least 28 days before a hearing, as well as the case scheduling order. In any event,

summary judgment would not have been appropriate as there were genuine issues of material fact as to whether the Appellant paid the wage claimant final wages as required by the wage payment and minimum wage laws. The Administrative Law Judge properly considered the motion as a prehearing brief, rather than a motion for summary judgment.

5. In its petition for review and opening brief, the Appellant asserts that “RCWs and WACs are overruling federal statutes,” and that “this case lacked full due process.” Parties must present argument in support of the issues for review, supported by citation to legal authority and to the factual basis for the claim. See *Fria v. Dep’t of Labor & Indus.*, 125 Wn.App. 531, 535, 105 P.3d 33 (2004). The Appellant cites no authority and offers no argument beyond these general terms and therefore fails to adequately present any issue for my review.

6. The Director adopts and incorporates all the Initial Order’s conclusions of law.


III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusion of Law, the Citation and Notice of Assessment No. W-132-16 as amended is AFFIRMED and the Initial Order of September 13, 2016, is incorporated by reference herein.

1. Payment of wages. See Citation and Notice of Assessment for payment information and the effect of the failure to pay wages and interest. The Appellant is ordered to pay wages to Dustin Reiber in the amount of \$721.56. The Appellant is also ordered to pay interest in the amount of one percent per month under RCW 49.48.083(2) for these wages (except for the time period of September 13, 2016, to the date this order is served). The Appellant is ordered to make these payments within thirty days of the date of service of this final Director’s Order.

2. Payment of Civil Penalty: The Appellant is ordered to pay the Department a penalty in the amount of \$1,000. *See* Citation and Notice of Assessment for payment information.

DATED at Tumwater this 19 day of April, 2017.



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 Rodriguez, hereby declare under penalty of perjury under the laws of the State of Washington, that the DIRECTOR'S ORDER was mailed on the 19 day of April 2017, via U.S. Mail, postage prepaid to the following:

Wes Loomis
LTT International, Inc.
PO Box 460
Lind, WA 99341

Heather Leibowitz
Assistant Attorney General
Office of the Attorney General
800 Fifth Ave Ste. 2000
Seattle, WA 98104

Dustin Reiber
22440 SR 28 East
Lamona, WA 99144

DATED this 19 day of April, 2017, at Tumwater, Washington.



Lisa Rodriguez

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

LTT International Inc. dba Loomis Truck &
Tractor Inc. and Wes Loomis,

Appellant.

Docket No. 01-2016-LI-00016

INITIAL ORDER

Agency: Department of Labor and Industries
Program: Wage Payments
Agency No. W-132-16

1. ISSUES PRESENTED

- 1.1 Whether LTT International Inc. dba Loomis Truck & Tractor Inc. and Wes Loomis owe final wages to Dustin Reiber in the amount of \$721.56 for 51.54 hours of work performed between April 1, 2015 and April 17, 2015, at a rate of \$14.00 per hour, plus interest, as set forth in the Department of Labor and Industries' October 2, 2015 Citation and Notice of Assessment as amended.
- 1.2 Whether LTT International Inc. dba Loomis Truck & Tractor Inc. and Wes Loomis are liable for a penalty of \$1,000.00 for willfully withholding wages owed to Dustin Reiber, as set forth in the Department of Labor and Industries' October 2, 2015 Citation and Notice of Assessment as amended.

2. ORDER SUMMARY

- 2.1 LTT International Inc. dba Loomis Truck & Tractor Inc. and Wes Loomis owe final wages to Dustin Reiber in the amount of \$721.56 for 51.54 hours of work performed between April 1, 2015 and April 17, 2015, at a rate of \$14.00 per hour, plus interest. The Department of Labor and Industries' October 2, 2015 Citation and Notice of Assessment as amended is AFFIRMED.
- 2.2 LTT International Inc. dba Loomis Truck & Tractor Inc. and Wes Loomis are liable for a penalty of \$1,000.00 for willfully withholding wages owed to Dustin Reiber. The Department of Labor and Industries' October 2, 2015 Citation and Notice of Assessment as amended is AFFIRMED.

3. HEARING

Hearing	September 7, 2016
Administrative Law Judge	Courtney E. Beebe
Appellant	LTT International Inc. dba Loomis Truck & Tractor Inc. and Wes Loomis
Department	Department of Labor and Industries
Department Rep.	Heather Leibowitz, Asst. Attorney General
Department Witnesses	Justina Farnsworth, Industrial Relations Agent; Dustin Reiber, Wage Claimant

Exhibits	Department's Exhibits 1 through 13 were admitted. Appellant's Exhibits 1 through 8 were admitted. Appellant's Exhibit 9 was excluded as untimely disclosed and filed.
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4. FINDINGS OF FACT

The Administrative Law Judge finds the following facts by a preponderance of the evidence:

Undisputed Facts

- 4.1 Wes Loomis owns and operates LTT International Inc. dba Loomis Truck & Tractor Inc. ("Appellant"). Dustin Reiber ("Wage Claimant") worked for the Appellant in 2011, but had left due to health reasons in 2012. The Wage Claimant was hired a second time in April 2013 as a full-time employee at a rate of \$14.00 per hour, and was to be paid on the fifth business day of each month for the previous months' work. (Department's Exhibit 12.)
- 4.2 The Appellant provided the Wage Claimant with a work schedule and required the Wage Claimant to keep time cards. (Appellant's Exhibits 6 and 7; Department's Exhibit 2.) Prior to April 1, 2015, the Wage Claimant had incidents of not appearing for work and the Wage Claimant did not properly clock in and out for lunch periods on a number of occasions. The Appellant addressed the attendance and time keeping issues with Appellant.
- 4.3 The Appellant did not always have work available for the Wage Claimant and the Appellant did not pay the Wage Claimant on the fifth business day of each month. The Appellant paid the Wage Claimant at random intervals in even, rounded amounts regardless of the number of hours worked in the pay period. (Appellant's Exhibit 8.) For the year 2013, the Appellant paid the Wage Claimant a total of \$16,200.00. For the year 2014, the Appellant paid the Wage Claimant a total of \$16,200.00. (Id.)
- 4.4 During his employment, the Wage Claimant came into possession of radios owned by the Appellant. The radios were old and not functioning. The Appellant was aware that the Wage Claimant possessed the radios for purposes of fixing them to sell. The Appellant did not report the radios as stolen or file a police report regarding any theft of the radios. The value of the radios is unknown. The Wage Claimant came into possession of the radios prior to April 1, 2015.
- 4.5 The Appellant did not notify the Wage Claimant at any time during his employment or within ninety-days of the last payment of wages to the Wage Claimant on April 7, 2015, that the Wage Claimant had been overpaid wages due to an incorrect rate of pay or incorrect hours worked. The Appellant did not work with the Wage Claimant to implement a plan for any overpayment of wages. The

Appellant did not serve on the Wage Claimant any demand for repayment of wages by certified mail or other means.

- 4.6 The Appellant and the Wage Claimant did not enter into a written agreement to deduct draws, advances, or any other amounts from the Wage Claimant's wages at any time.
- 4.7 The Wage Claimant worked 51.54 hours for appellant during the period of April 1, 2015 through April 17, 2015. (Department's Exhibit 12.) During this period the Wage Claimant's rate of pay was \$14.00 per hour. (Id.) The Wage Claimant quit working for the Appellant on April 17, 2015. The Wage Claimant was not paid for the work performed on May 6, 2015, the fifth business day of the following month. 51.54 hours of work at a rate of \$14.00 per hour equals \$721.56.
- 4.8 The Appellant requested that the Wage Claimant attend an exit interview to discuss outstanding wage payment issues and missing tools and equipment. The Wage Claimant declined to attend an exit interview. At a deposition in this matter on June 16, 2016, the Wage Claimant and the Appellant conducted an exit interview. (Appellant's Exhibit 5.)
- 4.9 The Wage Claimant filed a Worker's Rights Complaint with the Department seeking unpaid final wages on June 10, 2015. (Department's Exhibit 4.) The Wage Claimant provided pay stubs establishing his rate of pay. (Department's Exhibit 12.)
- 4.10 During its investigation of the wage claim, the Appellant did not provide the Department with any records of the hours the Wage Claimant worked or the wages the Wage Claimant received.

Jurisdiction

- 4.11 The Department of Labor and Industries issued Appellant a Citation and Notice of Assessment on October 2, 2015. The Department's Citation and Notice of Assessment assessed Appellant \$984.88 in wages, plus interest and a \$1,000.00 penalty.
- 4.12 The Appellant filed a letter of appeal and request for hearing on October 29, 2015.
- 4.13 The matter was forwarded to the Office of Administrative Hearings on January 25, 2016.
- 4.14 The Department moved to amend the Citation and Notice of Assessment on July 27, 2016 to reflect that the wages owed the Wage Claimant amounted to \$721.56. The Appellant did not object. The Administrative Law Judge allowed the amendment by order issued August 16, 2016.

5. CONCLUSIONS OF LAW

Based on the facts above, the Administrative Law Judge makes the following conclusions:

- 5.1 The Office of Administrative Hearings has jurisdiction over the persons and subject matter of this case under RCW 34.05, RCW 49.46, RCW 49.48, and RCW 49.52.

Burden of Proof

- 5.2 Under the WPA, the wage claimant has the initial burden of showing *prima facie* evidence of a wage payment law violation. See, *Anderson v. Mt. Clemens Pottery Co.*, 328 US. 680, 687-688, S.Ct. 1187, 90 L.Ed. 1515 (1946) (federal minimum wage law under Fair Labor & Standards Act); *MacSuga v. County of Spokane*, 97 Wn.App. 435, 445-446, 983 P.2d 1167 (1999). The *prima facie* showing must be supported by a preponderance of the evidence.
- 5.3 A preponderance of the evidence is that evidence which, when fairly considered, produces the stronger impression, has the greater weight, and is the more convincing as to its truth when weighed against the evidence in opposition thereto. *Yamamoto v. Puget Sound Lbr. Co.*, 84 Wash. 411, 146 Pac. 861 (1915).
- 5.4 Substantial evidence must be presented and must be "sufficient to persuade a fair-minded person of the truth or correctness of the matter." *Ongom v. Dept. of Health*, 124 Wn App. 935, 948-49, 104 P.3d 29 (2005), *reviewed on other grounds*, 155 Wn.2d 1001, 122 P.3d 185 (2005).

Evidentiary Rulings

- 5.5 The Appellant offered copies of checks as Appellant's Exhibit 9. Exhibit 9 was excluded because 1) the Appellant did not produce the documents as part of the discovery process prior to August 10, 2016 as required by the Prehearing Conference Order, and 2) because the Appellant filed Exhibit 9 on August 31, 2016, well after the August 17, 2016 filing deadline for witness and exhibit lists. Also, the check copies that comprise Exhibit 9 are partially redacted and therefore their relevancy and authenticity cannot be determined.
- 5.7 After the record closed to the submission of evidence and after the Appellant and Department presented closing arguments on the record, the Appellant produced for the first time physical copies of the Wage Claimant's time cards. The Appellant desired to present the documents as evidence and to respond to the Department's closing arguments. Because the record was closed to the introduction of evidence and because all deadlines for the production and

submission of documents passed as of August 17, 2016, the Appellant's request was denied and the time cards were not considered or admitted.

Applicable Law and Analysis

- 5.8 The Fair Labor Standards Act of 1938 ("FLSA") deals with overtime and minimum wage requirements for employees. The Washington Minimum Wage Act ("WMWA"), RCW 49.46 and the Wage Payment Act, RCW 49.48 ("WPA") are based on the FLSA. The Wage Claimant seeks wages as per the WMWA and WPA.
- 5.9 Wage Payment Act, RCW 49.48 (WPA) authorizes administrative enforcement of wage payment requirements. Upon receipt of a wage complaint that alleges a violation of a wage payment requirement, the Department "shall investigate" and, unless otherwise resolved, "shall" issue either a citation (when finding a wage law violation) or a determination of compliance (when finding no violation) within sixty days. RCW 49.48.083. The Department may extend the time period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the time period. (Id.)
- 5.10 Wage payment requirements are those "set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or 49.52.060, and any related rules adopted by the department." RCW 49.48.082(10). These wage payment requirements include, but are not limited to, requirements to pay minimum wages, overtime wages, agreed wages, and wages for final pay periods. RCW 49.48.082(12).
- 5.11 RCW 49.52.050(2) provides that it is unlawful to willfully withhold an agreed wage, which includes any wage an "employer is obligated to pay such employee by any statute, ordinance, or contract." The provisions of RCW 49.52.050(2) include oral or written agreements for hourly wages in excess of the minimum wage.
- 5.12 RCW 49.46.010(7) defines "wage" as:
- [C]ompensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules by director.
- RCW 49.46.010(7).
- 5.13 Hours worked means all hours which the worker is authorized or required by the business to be on the premises or at a prescribed work place. WAC 296-126-002(8). This could include travel time, training, and meeting time, wait time, on-call time, and time for putting on and taking off uniforms and also may include meal periods. RCW 49.48, 49.46 and 49.52.

- 5.14 When an employee ceases to work for an employer, "the wages due him or her on account of his or her employment shall be paid to him or her at the end of the established pay period." RCW 49.48.010.
- 5.15 The parties do not dispute that the Wage Claimant worked 51.54 hours for the Appellant between April 1, 2015 and April 17, 2015. The parties do not dispute that at the time of the work performed the Wage Claimant's hourly rate was \$14.00 per hour. The parties do not dispute that the Wage Claimant ceased working for the Appellant on April 17, 2015. The parties do not dispute that the wage payment was due on the fifth working day of the following month, in this case May 6, 2015. The parties do not dispute that the total amount of wages earned by the Wage Claimant is \$721.56 as set forth in the October 2, 2015 Citation and Notice of Assessment as amended.
- 5.16 An overpayment occurs when an employer infrequently and inadvertently pays an employee at a rate higher than the agreed rate or for more hours than those actually worked. WAC 296-126-030. An Employer can recover an overpayment by deducting the amount from an employee's paycheck within ninety (90) days of the initial overpayment and the employer must implement a plan with the employee to collect the overpayment.
- 5.17 Also, in order to withhold wages for an overpayment, the employer must (1) provide written notice to the employee which must include the amount of the overpayment, the basis for the claim, and demand for repayment of the overpayment within twenty (20) calendar days of the date the employee received the notice; and (2) the notice must be served in the manner prescribed for serving a summons and complaint in a civil action or sent to the employee by certified mail return receipt requested." RCW 49.48.210.
- 5.18 The Appellant argues that he allowed the Wage Claimant to take draws and/or advances on his wages each pay period from 2012 through 2015, and when the wages actually earned are compared to the draws and advances paid, the Wage Claimant has been overpaid and owes the Appellant money back.
- 5.19 There is no evidence presented that an inadvertent or infrequent overpayment occurred prior to April 1, 2015, such that the Appellant could reduce the Wage Claimant's final wages. The Appellant did not timely disclose to the Department or timely file as an exhibit, records showing the Wage Claimant's actual hours worked or pay checks or pay stubs evidencing the draws and advances the Wage Claimant had been paid. Instead, the Appellant submitted a summary of all payments made to the Wage Claimant in 2013, 2014 and 2015. (Appellant's Exhibit 8.) Notably, the payments occur at random intervals (not regularly on the fifth business day of the month) and in varying, round number amounts. Inexplicably, the payments for 2013 and 2014 total \$16,200.00 for each year.

- 5.20 The Appellant admittedly did not make an effort to attempt to recover any overpayment of wages within ninety (90) days of the alleged overpayment, and did not work with the Wage Claimant to implement a plan to collect the overpayment. Additionally, the Appellant failed to provide written notice to the Wage Claimant of an overpayment, the basis for the overpayment, and did not properly serve any demand for overpayment on the Wage Claimant.
- 5.21 Given the complete lack of evidence of an overpayment to the Wage Claimant, as well as the failure of the Appellant to comply with any of the requirements of recouping an overpayment, the Appellant's withholding of the Wage Claimant's final paycheck as a method of recouping an overpayment cannot be allowed.
- 5.22 Even if the draws and advances occurred, as the Appellant alleges, in order to deduct wages from an employee's final paycheck for advances or draws, the employer and employee must have a written agreement allowing the deduction from wages in advance of the deduction. WAC 296-126-025(2). Here, there is no written agreement allowing for a deduction from the Wage Claimant's final wages to make up for a draw or advance. There is no legal basis, then, for the Appellant to withhold the Wage Claimant's final wages.
- 5.23 The Appellant also asserted that the final wages were withheld because the Wage Claimant stole five radios from the Appellant. Any deduction of wages from an employee's final paycheck due to "alleged employee theft" is "permissible only if it can be shown that the employee's intent was to deprive and that the employer filed a police report. WAC 296-126-025(3). On balance, it appears that the Wage Claimant took the radios from the Appellant with the Appellant's permission. Even so, if the Wage Claimant stole the radios from the Appellant then there is no evidence that the Appellant filed a police report, or took any other action, in response to the theft. As a result, the Appellant cannot reduce the Wage Claimant's wages in order to make up for the value of the lost radios.
- 5.24 The Department has produced substantial evidence to persuade a fair-minded person by a preponderance of the evidence that the Appellant improperly withheld the Wage Claimant's final wages. The Department's October 2, 2015, Citation and Notice of Assessment as amended must be affirmed. The Appellant owes the Wage Claimant \$721.56 in final wages for 51.54 hours of work performed between April 1, 2015 and April 17, 2015, at a rate of \$14.00 per hour.

Interest

- 5.25 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.
- 5.26 Because the wages owed to the Wage Claimant have not been paid by

Appellant, the Wage Claimant is entitled to interest at a rate of 1% from May 6, 2015.

Penalties

5.27 The Department has the authority to issue a civil penalty to employers who unlawfully withhold an employee's wages. RCW 49.48.083(3)(a):

(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.

5.28 A willful violation is defined in RCW 49.48.082(13) as a "knowing 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 49.53.050(2)." RCW 49.48.082(13).

5.29 The Department has shown that the Appellant knew that wages were owed to the Wage Claimant and intentionally withheld the wages owed. There is no bona fide dispute between the parties regarding whether the wages are owed under the law. Therefore, the Appellant is liable for a penalty in the amount of \$1,000.00 as set forth in the Department's Amended Citation and Notice of Assessment.

6. INITIAL ORDER

6.1 The Department of Labor and Industries' October 2, 2015 Citation and Notice of Assessment as Amended is AFFIRMED. LTT International Inc. dba Loomis Truck & Tractor LLC and Wes Loomis are liable to Dustin Reiber for wages in the amount of \$721.56, plus interest of 1% from May 6, 2015, and a penalty of \$1,000.00.

Dated: September 13, 2016



Courtney Beebe
Administrative Law Judge
Office of Administrative Hearings

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:

Director
Department of Labor and Industries
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. 01-2016-LI-00016

I certify that true copies of this document were served from Tacoma, Washington upon the

following as indicated:

<p>Wes Loomis Loomis Truck & Tractor, Inc. PO Box 460 Lind, WA 99341 Appellant</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input checked="" type="checkbox"/> Certified Mail, Return Receipt 91 7199 9991 7036 9273 9158 <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>91 7199 9991 7036 9273 9158 Heather Leibowitz, AAG Office of the Attorney General 800 Fifth Avenue, Suite 2000 Seattle, WA 98104 Agency Representative</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Dustin Reiber 22440 SR 28 East Lamona, WA 99144 Wage Claimant</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>

Date: Tuesday, September 13, 2016

OFFICE OF ADMINISTRATIVE HEARINGS


 Holly Vest
 Legal Assistant

English

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September 15, 2016 , 9:02 am	Arrived at Unit	LIND, WA 99341
September 14, 2016 , 6:30 pm	Departed USPS Facility	SPOKANE, WA 99224
September 14, 2016 , 9:40 am	Arrived at USPS Facility	SPOKANE, WA 99224
September 13, 2016 , 11:32 pm	Departed USPS Facility	TACOMA, WA 98413
September 13, 2016 , 10:09 pm	Arrived at USPS Facility	TACOMA, WA 98413
September 13, 2016 , 8:54 pm	Accepted at USPS Origin Facility	OLYMPIA, WA 98501

Available Actions

Return Receipt Electronic

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Track Another Package

Tracking (or receipt) number

Track It

Manage Incoming Packages

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