

**DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON**

In re:

SHENGDONG WU,

Appellant/Wage Claimant,

Appeal of Determination of Compliance No.
047-24,

OAH Docket No. 05-2024-LI-02131.

No. 2025-010-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 appeal filed by the Shengdong Wu (Appellant), briefing submitted to the Director's Office, and having reviewed the record, 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 January 16, 2025.
2. The Director received a timely filed petition for administrative review from the Appellant.
3. The Director adopts and incorporates by reference all the Findings of Fact of the Initial

NO. 2025-010-WPA

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

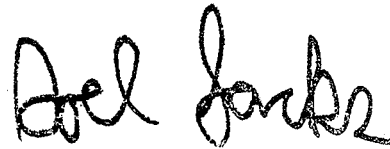
Order.

II. CONCLUSIONS OF LAW

1. Based on the Appellant's timely filed petition for administrative review, there is authority to review and decide this matter under RCW 49.48.084 and RCW 34.05.
2. The Director adopts and incorporates by reference all the Conclusions of Law and Initial Order of the Initial Order.

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusion of Law, and the Determination of Compliance is affirmed, and the Initial Order of January 16, 2025, is incorporated by reference herein.



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 emailing it to directorappeal@lni.wa.gov or by mailing 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 date listed below, to the following via regular, postage prepaid, U.S. Mail.:

Shengdong Wu
P.O. Box 283
Mesquite, NV 89024
centralia.us@gmail.com

Kobe Sushi & Teriyaki, Inc.
Db a Kobe Sushi & Teriyaki
c/o Xuan Xuan Chen
1905 S 1st St, Ste 102
Yakima, WA 98903

Kendra Sheedy, AAG
Office of the Attorney General
800 5th Ave, Ste 2000
Seattle, WA 98104
kendra.sheedy@atg.wa.gov

Samuel Grosz
Samuel David Law
210 SW Morrison St, Ste 500
Portland, OR 97204
samuel@samueldavidlaw.com
aimee@samueldavidlaw.com

DATED this 15th day of July 2025 at Tumwater, Washington.



LISA DECK

NO. 2025-010-WPA

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DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

OFFICE OF THE DIRECTOR
DEPARTMENT OF LABOR & INDUSTRIES
P.O. BOX 44001
OLYMPIA, WA 98504-4001

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Shengdong Wu,

Appellant/Wage Claimant.

Docket No. 05-2024-LI-02131

INITIAL ORDER

Agency: Labor and Industries

Program: Wage Payments

Agency No. 047-24

1. ISSUES:

- 1.1. Whether the Appellant/Wage Claimant, Shengdong Wu can prove, by a 'preponderance of the evidence' (more likely than not), the Department's 'Determination of Compliance No. 047-24', dated February 1, 2024, is in error and should be set aside?
- 1.2. Whether the Department of Labor and Industries' 'Determination of Compliance No. 047-24', dated February 1, 2024, should be affirmed, modified or set aside?

2. INITIAL ORDER SUMMARY:

- 2.1. The Appellant/Wage Claimant, Shengdong Wu, **failed to prove**, by a 'preponderance of the evidence', the Department's 'Determination of Compliance No. 047-24', dated February 1, 2024, is in error.
- 2.2. The Department of Labor and Industries' 'Determination of Compliance No. 047-24', dated February 1, 2024, is **AFFIRMED**.

3. EVIDENTIARY HEARING:

- 3.1. Hearing Date: November 20 & 21, 2024
- 3.2. Appellant: Shengdong Wu
 - 3.2.1. Representative: The Appellant represented himself.
 - 3.2.2. Witnesses: Shengdong Wu, Appellant/Wage Claimant
- 3.3. Agency: Department of Labor and Industries
 - 3.3.1. Representative: Kendra E. Sheedy, Assistant Attorney General
 - 3.3.2. Witnesses: Shi Jian Chen, Employer Manager
Rong Chen, Employer Server Manager
Ming Fa Chen, Previous Employee
Long Ze He, Former Employee

Irene Davis, Department Industrial Relations Agent

3.4. Intervening Employer: Kobe Sushi & Teriyaki, Inc.

3.4.1. Representative: Samuel Grosz, Attorney

3.4.2. Observer: Xuan Xuan Chen, Co-Owner

3.5. Exhibits: Department Exhibits 1 to 29 were admitted.

The Appellant did not submit any exhibits.

The Intervening Employer did not submit any exhibits.

3.6. Chinese/English

Interpreter Services: Sarah Svinth and Esther Atwell, Four Corners
Translation, LLC.

4. FINDINGS OF FACT:

The following facts were established by a 'preponderance of the evidence':

Jurisdiction-

4.1. On February 1, 2024, the Department of Labor and Industries (Department) issued 'Determination of Compliance #047-24' (DOC), to Shengdong Wu (Appellant/Wage Claimant/Wu) and Kobe Sushi & Teriyaki, Inc. doing business as (dba) Kobe Sushi & Teriyaki (Employer/Kobe Sushi & Teriyaki). The Department determined Kobe Sushi & Teriyaki did not owe Wu \$7,349.45 in unpaid agreed and overtime wages, for work performed, from August 30, 2023 to September 21, 2023. *Department Exhibit (Dept. Ex.) 1.*

4.2. On February 15, 2024, Wu appealed the Department's Determination of Compliance and requested an administrative hearing. *Dept. Ex. 2.*

Credibility Finding-

4.3. The Appellant and the Department differed on material points in the present case. Namely, whether the Employer, Kobe Sushi & Teriyaki paid the Wage Claimant, Shengdong Wu, for all hours worked during his employment. Therefore, a credibility finding is warranted.

4.4. In entering this finding, this administrative tribunal need not be persuaded 'beyond a reasonable doubt' as the true situation, nor must the evidence be deemed 'clear, cogent, and convincing'. Rather, it is only necessary to determine what most likely happened. *In re Murphy*, Em. Sec. Comm'r Dec. 2d 750 (1984).

[Continued]

4.5. After reviewing the admitted exhibits and considering the testimonies of the parties, this administrative tribunal finds the Department's evidence more credible and logically persuasive than the Appellant's evidence, for the following reasons:

(A) At the fact-finding, evidentiary hearing, the Department presented 29 exhibits and called five factually-knowledgeable witnesses. Whereas, the Appellant did not present any exhibits nor call any witnesses to collaborate his version of events;

(B) Two of the Department's witnesses, Ming Fa Chen and Long Ze He, who had factual information, no longer work for the employer so they did not have any interest in the outcome of the case;

(C) On September 21, 2023, at the time Wu quit, four witnesses, Shi Jian Chen, Rong Chen, Ming Fa Chen, and Long Ze He, confirmed a similar, sequestered version of events, in which Shi Jian Chen paid Wu \$3,344.00 in cash, with each of them counting the money. Whereas Wu denied ever being paid;

(D) Wu claimed all of the employer's records were false, but did not provide his own records or demonstrate how the employer's records had been falsified or forged;

(E) Department Industrial Relations Agent Irene Davis conducted a thorough investigation of Wu's wage complaint. When she interviewed the employer's witnesses, she never noted she believed any of them were being untruthfully or had jointly conspired against the Appellant when relaying their knowledge of Wu's employment for Kobe Sushi & Teriyaki;

(F) Department Industrial Relation Agent Irene Davis, after examining all relevant records and documentation, confirmed Kobe Sushi & Teriyaki had paid Wu for all 'hours worked'. The employer acknowledged additional wages were owed and paid them, as requested by the Department; and

(G) The evidence presented by Wu, consisting of Google Map screenshots did not establish his 'hours worked' or the rate of pay agreed upon between the parties.

4.6. Based on this credibility finding, this administrative tribunal finds the following 'Findings of Fact' more than likely occurred:

Kobe Sushi & Teriyaki-

4.7. Kobe Sushi & Teriyaki, Inc., is a restaurant, located in Yakima, Washington. Liang Cong, Zhi Jian Chen, Tukun Yang, Zhuo Fan and Xuan Xuan Chen serve as its governing members. *Dept. Ex. 29.*

[Continued]

Shi Jian Chen Testimony-

- 4.8. Shi Jian Chen (S. Chen), a manager at Kobe Sushi & Teriyaki, recalled hiring Wu as a kitchen staff at the restaurant. Chen recalled Wu working for 21 days in September and October 2023. *Testimony of Shi Jian Chen (Testimony of S. Chen).*
- 4.9. Shi Jian Chen recalled Wu's agreed rate of pay was \$4,800 per month, which equated to \$18.00 per hour. Wu was to work six days per week, typically from 11:00 a.m. to 9:00 or 9:30 p.m. Breakfast, lunch and dinner was provided to employees at set times between the various dinner services at the restaurant. *Testimony of S. Chen.*
- 4.10. Shi Jian Chen denied agreeing to pay Wu \$36.00 per hour. *Testimony of S. Chen.*
- 4.11. Since Wu did not have a work permit, Shi Jian Chen paid Wu in cash, based on the time records Shi Jian Chen kept regarding each employee at the restaurant. *Testimony of S. Chen.*
- 4.12. When Shi Jian Chen was not present to keep employee work hours, Rong Chen or Ming Fa Chen recorded employee hours. *Testimony of S. Chen.*
- 4.13. Shi Jian Chen offered Wu optional, rent-free housing in Yakima, where the restaurant was located. *Testimony of S. Chen.*
- 4.14. When Wu left his employment, on September 21, 2023, Shi Jian Chen paid Wu \$3,344.00 then later the restaurant paid Wu an additional \$1,633.75 , via check, as a part of the present case. *Testimony of S. Chen.*
- 4.15. On September 21, 2023, when Wu quit his employment, Shi Jian Chen, along with his spouse, Rong Chen, and two, other co-workers, Ming Fa Chen and Long Ze He, were also present at Chen's house/dorm, when Chen paid cash to Wu. *Testimony of S. Chen.*
- 4.16. Wu threatened to turn Kobe Sushi & Teriyaki Restaurant and Shi Jian Chen into Labor and Industries, but the employer had paid Wu all money owed to him. *Testimony of S. Chen.*

Rong Chen Testimony-

- 4.17. Rong Chen (R. Chen), the server manager, has worked the past four years at Kobe Sushi & Teriyaki in Yakima, Washington. *Testimony of Rong Chen (Testimony of R. Chen).*
- 4.18. On September 21, 2023, Rong Chen counted the \$3,344.00 in cash Shi Jian Chen gave to Wu when Wu quit his employment. Rong Chen and Wu also counted the cash. *Testimony of R. Chen.*
- 4.19. Rong Chen recalled Wu arguing with Shi Jian Chen, with Rong Chen, Ming Fa Chen and Long Ze He also present. *Testimony of R. Chen.*

Ming Fa Chen Testimony-

- 4.20. Ming Fa Chen (M. Chen) used to work at Kobe Sushi & Teriyaki as a sushi chef then kitchen chef, around the same time as Wu worked there, but left in October 2024. *Testimony of Ming Fa Chen (Testimony of M. Chen).*
- 4.21. Ming Fa Chen recalled employee hours were written down by Shi Jian Chen or Rong Chen, depending on who was working. *Testimony of M. Chen.*
- 4.22. Ming Fa Chen did not keep a record of employee hours worked, but rather just supervised employees, as needed. *Testimony of M. Chen.*
- 4.23. Ming Fa Chen recalled being present at the house/dorm, when Shi Jian Chen paid Wu around \$3,300 in cash, when Wu quit and left. *Testimony of M. Chen.*
- 4.24. Ming Fa Chen recalled Wu did not have a work permit, so he was paid in cash. However, Ming Fa Chen was paid by check with taxes withheld. *Testimony of M. Chen.*

Long Ze He Testimony-

- 4.25. Long Ze He (He) worked with Wu at Kobe Sushi & Teriyaki in Yakima. They also lived together in at the Chen house/dorm. He no longer works at the restaurant. *Testimony of Long Ze He (Testimony of He).*
- 4.26. Long Ze He was paid by check, from Shi Jian Chen, at the restaurant, but also paid sometimes at the Chen house/dorm. *Testimony of He.*
- 4.27. Long Ze He recalled Wu being paid, roughly \$3,300 in cash, by Shi Jian Chen, on September 21, 2023, when Wu quit. Shi Ji Chen, Rong Chen, Ming Fa Chen and Long Ze He were all present when Wu was paid and left. *Testimony of He.*

Shengdong Wu Testimony-

- 4.28. The Wage Claimant, Shengdong Wu (Wu), was living in Portland, Oregon, when he was hired by Kobe Sushi & Teriyaki, in Yakima, Washington. *Testimony of Shengdong Wu Testimony of Wu).*
- 4.29. Wu believed because he did not have a work permit he was bullied at work, required to do the work for two people, and his work hours were not properly recorded. *Testimony of Wu.*
- 4.30. On September 21, 2023, Wu entered the Chen house/dorm and an argument began when Shi Jian Chen insulted Wu about wanting \$5,000 per month in wages. *Testimony of Wu.*
- 4.31. Being new to the United States, since June 2023, Wu was unaware of keeping a record of his work hours 'down to the minute'. *Testimony of Wu.*

Department Wage Complaint Investigation-

- 4.32. On October 7, 2023, Shengdong Wu (WU) filed a 'Worker Rights Complaint' with the Washington State Department of Labor and Industries (Department). In his complaint, Wu alleged his former employer, Kobe Sushi & Teriyaki, located in Yakima, Washington, failed to pay him agreed and overtime wages, during his employment from September 22, 2023, to October 7, 2023. *Testimony of Irene Davis (Testimony of Davis) and Dept. Ex. 4.*
- 4.33. From October 10, 2023, to December 12, 2023, Department Industrial Relations Agent Irene Davis (Agent Davis) investigated Wu's wage complaint and kept contemporaneous notes of her investigation. *Testimony of Davis and Dept. Ex. 3.*
- 4.34. Department Agent Davis noted Wu's wage complaint was 'kinda blank' and provided limited information, but listed an hourly rate of \$27.00 per hour. *Testimony of Davis.*
- 4.35. With his wage complaint, Wu had attached Google Map printouts. However, these screenshots don't prove actual 'hours worked'. *Testimony of Davis.*
- 4.36. On October 9, 2023, the Department sent a letter to Wu, confirming the Department's receipt of his wage complaint and informing him the Department would take 60 days to conduct its investigation. *Testimony of Davis and Dept. Ex. 5.*
- 4.37. On October 12, 2023, the Department sent a letter to Wu, requesting additional information regarding his wage complaint, including a reconstruction of hours worked, list of possible witnesses, copies of paystubs, and other employment information to substantiate his employment with Kobe Sushi & Teriyaki. *Testimony of Davis and Dept. Ex. 6.*
- 4.38. On November 2, 2023, Wu responded to the Department's request for additional information, which included a reconstruction of hours worked, copies of text messages, and Google travel map screenshots during some of the dates during Wu's employment. *Dept. Ex. 7.*
- 4.39. On November 3, 2023, Agent Davis sent an email to Wu, requesting clarification regarding his rate of pay, based on his provided information. *Testimony of Davis and Dept. Ex. 8.*
- 4.40. On the same day, Agent Davis called and sent a letter to Shi Jian Chen, on behalf of Kobe Sushi & Teriyaki, to discuss Wu's wage complaint. Agent Davis sent a copy of Wu's wage complaint and stated the Employer could either pay the requested wages alleged or else provide records, refuting such wages. *Testimony of Davis and Dept. Ex. 9.*
- 4.41. On the same day, Agent Davis also sent to Wu a copy of the letter sent to Kobe Sushi & Teriyaki. *Dept. Ex. 10.*

- 4.42. On November 4, 2023, Samuel Grosz, Attorney, notified Agent Davis he would be representing Kobe Sushi & Teriyaki, regarding Wu's wage complaint. *Dept. Ex. 11.*
- 4.43. On November 6, 2023, Agent Davis sent an email to Wu, regarding his allegation he had been terminated in retaliation for disputing his wages and working conditions. Based on Wu's response, Agent Davis told Wu the Department did not have jurisdiction to investigate the retaliation claim. *Dept. Ex. 12.*
- 4.44. On November 15, 2023, Wu sent an email to Agent Davis correcting his earlier wage calculation, based on 'net income after tax'. Wu calculated he was owed a yearly salary of \$75,650. *Testimony of Davis; Testimony of Shengdong Wu (Testimony of Wu); and Dept. Ex. 13.*
- 4.45. Department Agent Davis noted the Employer, Kobe Sushi & Teriyaki, disputed it had agreed to pay Wu \$27.00 per hour. *Testimony of Davis.*
- 4.46. On November 16, 2023, Agent Davis contacted Wu to inform him she had already contacted Kobe Sushi & Teriyaki with his original claim for wages, \$6,669.00, not his newest wage calculation of \$8,983.20 in wages owed. *Testimony of Davis and Dept. Ex. 14.*
- 4.47. On the same day, Wu sent an email to Agent Davis clarifying why he believed he was owed 27 Yuan per hour, the equivalent of \$75,650 yearly salary. Wu also attached pictures of text messages between he and the employer. *Testimony of Davis; Testimony of Wu; and Dept. Ex. 15.*
- 4.48. Department Agent Davis noted Wu provided no supporting documentation or information establishing an agreed rate of pay between Kobe Sushi & Teriyaki and Wu. *Testimony of Davis.*
- 4.49. On November 20, 2023, Wu sent an email to Agent Davis with attached pictures of recipes, alleging he held a wok chef position at the employer's restaurant. *Testimony of Davis and Dept. Ex. 16.*
- 4.50. On November 22, 2023, Agent Davis notified the parties her investigation would take longer than 60 days to complete. *Dept. Ex. 17.*
- 4.51. On November 24, 2023, Attorney Grosz, on behalf of Kobe Sushi & Teriyaki, sent a letter to Agent Davis, disputing Wu's version of events and amount of wages owed. Grosz's correspondence also included handwritten time records and employee payroll records. *Testimony of Davis and Dept. Ex. 18.*
- 4.52. Department Agent Davis noted Wu's work hours were recorded by handwritten records. *Testimony of Davis.*
- 4.53. Kobe did not dispute Wu worked, from August 30, 2023 to September 21, 2023, but disputed the 'hours worked', as alleged by Wu. *Testimony of Davis.*

- 4.54. Shi Jian Chen, on behalf of Kobe Sushi & Teriyaki, recalled paying Wu \$3,344, in cash when he quit. *Testimony of Davis.*
- 4.55. In reviewing the Employer's records provided, Department Agent Davis noted Kobe Sushi & Teriyaki employees were not paid more than \$27.00 per hour, as alleged by Wu. *Testimony of Davis.*
- 4.56. Department Agent Davis noted only an oral argument existed between the Kobe owners and Wu. No collective bargaining agreement existed. *Testimony of Davis.*
- 4.57. On November 28, 2023, Agent Davis sent an email to Attorney Grosz, with an attached final demand letter. Agent Davis had calculated Kobe owed Wu a total of \$4,977.75. Wu had been paid \$3,344.00 from the employer, with \$1,633.75 still owed. Agent Davis also included a copy of Wu's wage complaint and wage computation sheet. *Testimony of Davis and Dept. Ex. 19.*
- 4.58. Department Agent Davis determined Wu's 'hourly rate' was his salary paid, broken down into an hourly rate. However, his hourly rate was increased by Kobe on September 5, 2023. *Testimony of Davis.*
- 4.59. On the same day, Agent Davis sent an email to WU, notifying him of her final demand letter sent to the employer and included all documentation sent to the employer. *Dept. Ex. 20.*
- 4.60. In response, on November 28, 2023, Wu sent an email to Agent Davis, disputing the amount owed, continuing to allege he was still owed \$8,983.20. *Dept. Ex. 21.*
- 4.61. On November 29, 2023, Wu sent another email to Agent Davis, disputing the employer's submitted work schedule and claiming it was a forgery. *Dept. Ex. 22.*
- 4.62. On December 5, 2023, Agent Davis exchanged emails with Attorney Grosz, regarding a list of witnesses, who could collaborate the employer's version of events. *Testimony of Davis and Dept. Ex. 23.*
- 4.63. Department Agent Davis contacted the Employer-listed witnesses as a part of her investigation of Wu's wage complaint. She documented these witness interviews in her investigation 'case notes'. *Testimony of Davis.*
- 4.64. On December 8, 2023, Attorney Grosz provided a check, in the amount of \$1,633.75, the amount requested by the Department, in its assessment of wages owed to Wu. *Testimony of Davis and Dept. Ex. 24.*
- 4.65. On the same day, Agent Davis notified Wu of the Department's receipt of the \$1,633.75 check, from the Employer. She requested a wage release form from Wu, in exchange for the payment. *Testimony of Davis and Dept. Ex. 25.*

- 4.66. If the Wage Claimant, Wu, had accepted the Employer's \$1,633.75 check, the Department's investigation would have concluded and the case been closed. If not, the Department would issue a 'Determination of Compliance'. *Testimony of Davis.*
- 4.67. On December 11, 2023, Wu declined the Employer's \$1,633.75 payment, due to 'the employer forged the timesheet and my signature'. *Dept. Ex. 26.*
- 4.68. On December 12-15, 2023, Agent Davis exchanged emails with Wu, regarding the \$1,633.75 check would be saved for 60 days and a Determination of Compliance would be issued. Wu inquired about withdrawing his wage complaint and pursuing other legal action against the Employer. *Dept. Ex. 27.*
- 4.69. On December 12, 2023, unable to substantiate the Wu's allegations, and paid in full, Agent Davis issued a 'Determination of Compliance Agent Summary' recommending a Determination of Compliance be issued since 'the employer [Kobe Sushi & Teriyaki] provided sufficient information to show the claimant [Wu] was paid all wages, for all hours worked'. *Testimony of Davis and Dept. Ex. 28.*
- 4.70. Following her investigation, Department Agent Davis determined Kobe had tracked Wu's 'hours worked', had paid Wu for all 'hours worked', when Wu was authorized or required to be at work, on duty or on the Employer's premises/workplace. *Testimony of Davis.*
- 4.71. Department Agent Davis additionally determined Wu's mere allegation of unpaid wages and Google Map screenshots were insufficient to establish Kobe had failed to pay him for any wages owed. *Testimony of Davis.*
- 4.72. Based on the Department's investigation, Kobe had paid all wages due to Wu and did not owe any additional wages to him. *Testimony of Davis.*
- 4.73. On February 1, 2024, the Department issued 'Determination of Compliance #047-24' (DOC), to Wu and Kobe Sushi & Teriyaki. The Department determined Kobe Sushi & Teriyaki did not owe Wu \$7,349.45 in unpaid agreed and overtime wages, for work performed from August 30, 2023 to September 21, 2023. *Dept. Ex. 1.*

[Continued]

5. CONCLUSIONS OF LAW:

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

Jurisdiction-

5.1. The Office of Administrative Hearings has jurisdiction over the persons and subject matter based on RCW 49.48.084(3) and Chapter 34.05 RCW.

Burden and Standard of Proof Challenging a 'Determination of Compliance'-

5.2. In contesting a 'Determination of Compliance', the appealing party has the burden of proof, to establish by a 'preponderance of the evidence', a 'more likely than not' standard of proof, the Department's 'Determination of Compliance' is in error. *MacSuga v. County of Spokane*, 97 Wn. App. 435, 445-446, 983 P.2d 1167 (1999).

5.3. In the present case, the Appellant/Wage Claimant, Shengdong Wu, has the burden to prove, by a 'preponderance of the evidence', the Department's 'Determination of Compliance No. 047-24', dated February 1, 2024, is in error.

Relevant Department Labor & Industries Laws and Regulations-

5.4. The Department of Labor & Industries 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 49.46.130); (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 the employer pays an employee less than wages to which such employee is entitled, the employer shall be liable to such employee for the full amount of such wages. RCW 49.46.090(1).

5.7. RCW 49.46.130, regarding overtime pay, requires an employer to pay one and one-half times the regular rate of pay for all hours worked over 40 in a workweek.

5.8. WAC 296-128-550 allows for an employee to be paid overtime at a rate if one and one-half of a piece rate is agreed upon, rather than the regular rate of pay.

Appellant Wu Failed to Prove Determination of Compliance Error-


- 5.9. In the present case, Appellant/Wage Claimant, Shengdong Wu, alleged his former employer, Kobe Sushi & Teriyaki, failed to pay him agreed and overtime wages, amounting to \$8,983.20, for his work from August 30, 2023 to September 21, 2023.
- 5.10. However, at the fact-finding, evidentiary hearing, the Department presented credible evidence, via admitted exhibits and collaborating, eyewitness testimony, regarding the events relating to Shengdong Wu's employment for Kobe Sushi & Teriyaki.
- 5.11. The undersigned administrative law judge finds the Appellant/Wage Claimant, Shengdong Wu, failed to present evidence sufficient to determine any wages are still owed, beyond those already recommended by the Department to be paid. As such, the Employer, Kobe Sushi & Teriyaki, has paid Wu for all 'hours worked'.
- 5.12. As a result, the Appellant, who has the burden of proof to establish, by a 'preponderance of the evidence' (more likely than not), the Department's Determination of Compliance No. 047-24', dated February 1, 2024, was in error. The Appellant failed to provide sufficient evidence to overturn the Department's 'Determination of Compliance No. 047-24', dated February 1, 2024.
- 5.13. The Appellant/Wage Claimant, Shengdong Wu, **failed to prove**, by a 'preponderance of the evidence' (more likely than not), the Department's 'Determination of Compliance No. 047-24', dated February 1, 2024, was in error.
- 5.14. The Department of Labor and Industries' 'Determination of Compliance No. 047-24', dated February 1, 2024, is **AFFIRMED**.

6. INITIAL ORDER:

THIS ADMINISTRATIVE TRIBUNAL ORDERS;

- 6.1. The Appellant/Wage Claimant, Shengdong Wu, **failed to prove**, by a 'preponderance of the evidence', the Department's 'Determination of Compliance No. 047-24', dated February 1, 2024, is in error.
- 6.2. The Department of Labor and Industries' 'Determination of Compliance No. 047-24', dated February 1, 2024, is **AFFIRMED**.

Issued from Olympia, Washington on the date of mailing.



TJ Martin
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF SERVICE ATTACHED

APPEAL RIGHTS

PETITION FOR REVIEW

Any party that disputes this Initial Order may file a Petition for Review with the Director of the Department of Labor and Industries.¹ You may e-mail your Petition for Review to the Director at directorappeal@lni.wa.gov. You may also mail or deliver your Petition for 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 Review, please do not mail or deliver a paper copy to the Director.

Whether you e-mail, mail or deliver the Petition for Review, the Director *must actually receive* the Petition for 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 Review to the other parties at the same time.

If the Director does not receive a Petition for 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 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. 05-2024-LI-02131

I certify that true copies of this document were served on those listed below, from Olympia, Washington via Consolidated Mail Services by one of the following: First Class Mail, Certified Mail, Hand Delivery via Messenger, Campus Mail, Facsimile, or by Email.

Shengdong Wu 36411 Cabrillo Dr Fremont, CA 94536 <i>Appellant/Wage Claimant</i>	<input type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input checked="" type="checkbox"/> E-mail: centralia.us@gmail.com
Kobe Sushi & Teriyaki Inc dba Kobe Sushi & Teriyaki c/o Xuan Xuan Chen 1905 S. 1st St., Ste. 102 Yakima, WA 98903 <i>Intervenor/Employer</i>	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> E-mail
Samuel Grosz Samuel David Law 210 SW Morrison St., Ste. 500 Portland, OR 97204 <i>Intervenor Representative</i>	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input checked="" type="checkbox"/> E-mail: samuel@samueldavidlaw.com aimee@samueldavidlaw.com
Kendra E. Sheedy, AAG Office of the Attorney General 800 Fifth Ave Ste 2000 Seattle, WA 98104 <i>Agency Representative</i>	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input checked="" type="checkbox"/> E-mail Kendra.Sheedy@atg.wa.gov ror.pela@atg.wa.gov lniseaeservice@atg.wa.gov

Date: Thursday, January 16, 2025

OFFICE OF ADMINISTRATIVE HEARINGS



Amber Guarnacci
Legal Assistant 3



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

P.O. Box 44000 • Olympia, Washington 98504-4000

July 1, 2025 LD
2025年6月30日(星期四)

通过电子邮件和美国邮政

Shengdong Wu
P.O. Box 283
Mesquite, NV 89024
centralia.us@gmail.com

Kobe Sushi & Teriyaki, Inc.
dba Kobe Sushi & Teriyaki
c/o Xuan Xuan Chen
1905 S 1st St, Ste 102
Yakima, WA 98903

Kendra Sheedy, AAG
Office of the Attorney General
800 5th Ave, Ste 2000
Seattle, WA 98104
kendra.sheedy@atg.wa.gov
lniseaeservice@atg.wa.gov
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Samuel Grosz
Samuel David Law
210 SW Morrison St, Ste 500
Portland, OR 97204
samuel@samueldavidlaw.com
aimee@samueldavidlaw.com

关于: **Shengdong Wu**
OAH 案卷编号 05-2024-LI-02131
部长编号 2025-010-WPA

尊敬的各方:

随函附上部长裁决令, 送达日期以邮寄日为准。为方便起见, 另附最初裁决令副本一份。

谨致问候,

Joel Sacks
部长

随附件

抄送: Dan Gerard 法官
Haley Bobbitt, Tacoma OAH
Anastasia Sandstrom, AAG

劳工与工商保险服务部部长
华盛顿州

关于：

SHENGDONG WU,

上诉人/工资索赔人，

针对“合规裁决第 047-24 号”的上诉，

OAH 案卷编号 05-2024-LI-02131。

编号_2025-010-WPA_____

部长裁决令

RCW 49.48.084(4); RCW 34.05

华盛顿州劳工与工商保险服务部部长 Joel Sacks 经考量 Shengdong Wu（上诉人）提交的上诉、向部长办公室提交的书面陈述，并审查相关记录后，作出本部长裁决令。

部长作出如下事实认定、法律裁定及最终决定和裁决。

I. 事实认定

1. 行政听证处于 2025 年 1 月 16 日签发并送达最初裁决令。
2. 部长及时收到上诉人提交的行政复申请愿书。
3. 部长采纳并援引最初裁决令中的全部事实认定内容。

编号_2025-010-WPA_____

1

部长裁决令

RCW 49.48.084(4); RCW 34.05


OFFICE OF THE DIRECTOR
DEPARTMENT OF LABOR & INDUSTRIES
P.O. BOX 44001
OLYMPIA, WA 98504-4001

II. 法律裁定

1. 基于上诉人及时提交的行政复申请愿书，依据 RCW 49.48.084 和 RCW 34.05，本案具备复审及裁决权限。
2. 部长采纳并援引最初裁决令中的全部法律裁定及最初裁决令内容。

III. 裁定与法令

根据上述事实认定与法律裁定，维持合规裁决，并援引 2025 年 1 月 16 日的最初裁决令内容作为本裁决依据。



JOEL SACKS
部长

送达

本裁决令于交寄美国邮政之日视为送达。RCW 34.05.010(19)。

上诉权利

复审。任何一方均可提交重审请愿书。RCW 34.05.470。重审请愿书须在本裁决令送达之日起 10 日内提交，并写明请求救济的具体理由。除非重审请愿书明确表明 (a) 裁决令存在实质性笔误**或** (b) 存在具体的事实或法律错误，否则任何事项均不予重审。重审请愿书及所有支持理由，应通过电子邮件发送至 directorappeal@lni.wa.gov 或邮寄/面递给劳工与工商保险服务部部长 Joel Sacks，地址：P. O. Box 44001 Olympia, Washington 98504-4001，并同时抄送所有记录在案的其他当事人及其代表。提交以部长办公室实际收到文件为准。RCW 34.05.010(6)。

附注：申请司法审查前无需先提交重审请愿书。然而，若提交重审请愿书，30 日期限将自该请愿书解决之日起算。若重审请愿书及时提交，但部长未在请愿书提交之日起二十(20)日内 (a) 处理该请愿书；**或** (b) 向各方送达书面通知，指定就该请愿书作出决定的日期，则视为该请愿书被驳回。RCW 34.05.470(3)。

司法审查。任何司法审查请愿书须在本裁决令送达后 30 日内向适当的法院提交并送达。RCW 34.05.542。RCW 49.48.084(5)规定：“未在本条及 RCW 第 34.05 章规定期限内提起上诉的裁定为最终裁定且具约束力，不得再行上诉。”根据 RCW 第 34.05 章第五部分“司法审查与民事执行”规定的程序，通过向高等法院提交请愿书启动司法审查程序。

邮寄声明

本人 Lisa Deck 在此根据华盛顿州法律宣誓，若作虚假陈述愿承担伪证罪的法律责
任，本**部长裁决令**已于下述日期通过美国邮政预付邮资的普通邮件寄往下列地址：

Shengdong Wu
P.O. Box 283
Mesquite, NV 89024
centralia.us@gmail.com

Kobe Sushi & Teriyaki, Inc.
Db a Kobe Sushi & Teriyaki
c/o Xuan Xuan Chen
1905 S 1st St, Ste 102
Yakima, WA 98903

Kendra Sheedy, AAG
Office of the Attorney General
800 5th Ave, Ste 2000
Seattle, WA 98104
kendra.sheedy@atg.wa.gov

Samuel Grosz
Samuel David Law
210 SW Morrison St, Ste 500
Portland, OR 97204
samuel@samueldavidlaw.com
aimee@samueldavidlaw.com

日期：2025 年 6 月 1st July 日，地点：华盛顿州塔姆沃特市。


LISA DECK

编号_2025-010-WPA_____

4

部长裁决令

RCW 49.48.084(4); RCW 34.05

OFFICE OF THE DIRECTOR
DEPARTMENT OF LABOR & INDUSTRIES
P.O. BOX 44001
OLYMPIA, WA 98504-4001

华盛顿州
行政听证处

关于：Shengdong Wu，

上诉人/工资索赔人。

案卷编号 05-2024-LI-02131

最初裁决令

机构： 劳工与工商
保险计划： 工资支付
机构编号 047-24

1. 争议焦点：

- 1.1. 上诉人/工资索赔人Shengdong Wu是否能以“证据优势”（即“更有可能成立”）证明部门于2024年2月1日作出的“合规裁决第047-24号”存在错误并应予以撤销？
- 1.2. 劳工与工商保险服务部于2024年2月1日作出的“合规裁决第047-24号”是否应予以维持、变更或撤销？

2. 最初裁决令概要：

- 2.1. 上诉人/工资索赔人Shengdong Wu未能以“证据优势”证明部门于2024年2月1日作出的“合规裁决第047-24号”存在错误。
- 2.2. 劳工与工商保险服务部于2024年2月1日作出的“合规裁决第047-24号”予以**维持**。

3. 证据听证会：

- 3.1. 听证日期： 2024年11月20日及21日
- 3.2. 上诉人： Shengdong Wu
 - 3.2.1. 代理人： 上诉人自行代理。
 - 3.2.2. 证人： Shengdong Wu， 上诉人/工资索赔人
- 3.3. 机构： 劳工与工商保险服务部
 - 3.3.1. 代理人： Kendra E. Sheedy， 助理检察总长
 - 3.3.2. 证人： Shi Jian Chen， 雇主经理
Rong Chen， 雇主服务经理
Ming Fa Chen， 前雇员
Long Ze He， 前雇员

Irene Davis, 部门劳资关系代理

3.4. 介入雇主:

Kobe Sushi & Teriyaki, Inc.

3.4.1. 代理人:

Samuel Grosz, 律师

3.4.2. 观察员:

Xuan Xuan Chen, 共同所有人

3.5. 证物:

部门证物1至29号均获采纳。

上诉人未提交任何证物。

介入雇主未提交任何证物。

3.6. 中文/英文

口译服务:

Sarah Svinth和Esther Atwell, Four Corners
Translation, LLC.

4. 事实认定:

以下事实已通过“证据优势”得以确立:

管辖权-

4.1. 2024年2月1日, 劳工与工商保险服务部(以下简称“部门”)向Shengdong Wu(上诉人/工资索赔人/Wu)及以Kobe Sushi & Teriyaki(雇主/Kobe Sushi & Teriyaki)名义开展业务的Kobe Sushi & Teriyaki, Inc.出具“合规裁决第047-24号”(以下简称“DOC”)。部门认定, Kobe Sushi & Teriyaki不欠付Wu在2023年8月30日至2023年9月21日工作期间的协议工资及加班工资共计7,349.45美元。部门证物(Dept. Ex.)1.

4.2. 2024年2月15日, Wu就部门的合规裁决提起上诉, 并请求举行行政听证。部门证物2.

可信度认定-

4.3. 在本案中, 上诉人与部门在关键事实上存在分歧。具体而言, 雇主Kobe Sushi & Teriyaki是否已向工资索赔人Shengdong Wu支付其在职期间的全部工时工资。因此, 有必要进行可信度认定。

4.4. 在作出此认定时, 本行政法庭无需被“排除合理怀疑”地说服为真实情况, 也无需将证据视为“明确、有说服力且令人信服”。相反, 只需确定最可能发生的情况。关于Murphy, Em.Sec.Comm'r Dec. 2d 750 (1984)。

[续]

4.5. 在审查已采纳的证物并考虑各方证词后，本行政法庭基于以下理由认定：部门的证物较上诉人的证物更具可信度和逻辑说服力：

(A) 在事实认定证据听证会上，部门提交了29件证物，并传唤了五名了解事实的证人。而上诉人未提交任何证物，也未传唤任何证人佐证其陈述的事件经过；

(B) 部门的两名证人（Ming Fa Chen和Long Ze He）掌握事实信息，且已不再为雇主工作，因此与案件结果无任何利害关系；

(C) 2023年9月21日Wu辞职时，四名证人（Shi Jian Chen、Rong Chen、Ming Fa Chen和Long Ze He）均确认了一致且相互印证的事件经过：Shi Jian Chen以现金方式向Wu支付了3,344.00美元，且每人都参与了钱款的清点。而Wu否认曾收到任何付款；

(D) Wu声称雇主的所有记录均为虚假，但未提供自己的记录，也未证明雇主的记录是如何被篡改或伪造的；

(E) 部门劳资关系代理Irene Davis对Wu的工资投诉进行了彻底调查。当她询问雇主方证人时，从未记录过自己认为任何证人在陈述Wu为Kobe Sushi & Teriyaki工作的情况时存在不诚实行为，或共同合谋对抗上诉人；

(F) 部门劳资关系代理Irene Davis在审查所有相关记录和文件后，确认Kobe Sushi & Teriyaki已向Wu支付了全部“工时”的工资。雇主承认欠付额外工资，并按部门要求进行了支付；且

(G) Wu提交的证据（由Google Map截图组成）未能证明其“工时”或双方约定的报酬率。

4.6. 基于此可信度认定，本行政法庭认定以下“事实认定”极有可能发生：

Kobe Sushi & Teriyaki-

4.7. Kobe Sushi & Teriyaki, Inc.是一家位于华盛顿州亚基马市的餐厅。Liang Cong、Zhi Jian Chen、Tukun Yang、Zhuo Fan和Xuan Xuan Chen担任其管理成员。部门证物 29.

[续]

Shi Jian Chen的证词-

- 4.8. Shi Jian Chen (S. Chen), Kobe Sushi & Teriyaki经理, 回忆称曾雇佣Wu为餐厅厨房员工。Chen回忆称, Wu在2023年9月至10月期间工作了21天。*Shi Jian Chen的证词* (简称“S. Chen的证词”)。
- 4.9. Shi Jian Chen回忆称, Wu的协议工资为每月4,800美元, 相当于每小时18.00美元。Wu每周工作六天, 通常从上午11:00工作至晚上9:00或9:30。餐厅在各正餐服务时段之间的固定时间为员工提供早餐、午餐和晚餐。*S. Chen的证词*。
- 4.10. Shi Jian Chen否认曾同意向Wu支付每小时36.00美元的工资。*S. Chen的证词*。
- 4.11. 由于Wu没有工作许可证, Shi Jian Chen根据其记录的餐厅员工考勤时间, 以现金方式向Wu支付工资。*S. Chen的证词*。
- 4.12. 当Shi Jian Chen不在场记录员工工作时间时, 由Rong Chen或Ming Fa Chen负责记录员工工时。*S. Chen的证词*。
- 4.13. Shi Jian Chen向Wu提供了位于餐厅所在地亚基马市的可选择免租金住房。*S. Chen的证词*。
- 4.14. 2023年9月21日Wu离职时, Shi Jian Chen向其支付了3,344.00美元, 随后餐厅通过支票额外支付了1,633.75美元, 作为本案的一部分。*S. Chen的证词*。
- 4.15. 2023年9月21日Wu离职当日, Shi Jian Chen与其配偶Rong Chen及另外两名同事Ming Fa Chen和Long Ze He在Chen的住所/宿舍内, 以现金方式向Wu支付了工资。*S. Chen的证词*。
- 4.16. Wu曾威胁要向劳工与工商保险服务部举报Kobe Sushi & Teriyaki Restaurant和Shi Jian Chen, 但雇主已向其支付了所有欠薪。*S. Chen的证词*。

Rong Chen的证词-

- 4.17. Rong Chen (R. Chen), 服务经理, 已在华盛顿州亚基马市的Kobe Sushi & Teriyaki餐厅工作四年。*Rong Chen的证词* (简称“R. Chen的证词”)。
- 4.18. 2023年9月21日, Wu离职时, Rong Chen清点了Shi Jian Chen交给Wu的3,344.00美元现金。Rong Chen和Wu共同清点了该笔现金。*R. Chen的证词*。
- 4.19. Rong Chen回忆称, Wu与Shi Jian Chen发生争执时, Rong Chen、Ming Fa Chen和Long Ze He均在场。*R. Chen的证词*。

Ming Fa Chen的证词-

- 4.20. Ming Fa Chen (M. Chen)曾在Kobe Sushi & Teriyaki担任寿司厨师及后厨厨师，与Wu工作时间大致相同，但于2024年10月离职。*Ming Fa Chen的证词*（简称“M. Chen的证词”）。
- 4.21. Ming Fa Chen回忆称，员工工时由Shi Jian Chen或Rong Chen记录，具体取决于当时谁在岗。*M. Chen的证词*。
- 4.22. Ming Fa Chen不负责记录员工工时，而是根据需要监督员工。*M. Chen的证词*。
- 4.23. Ming Fa Chen回忆称，Wu离职时，他在住所/宿舍目睹Shi Jian Chen以现金方式向Wu支付了约3,300美元。*M. Chen的证词*。
- 4.24. Ming Fa Chen回忆称，Wu因无工作许可证，故以现金方式领取工资。但Ming Fa Chen本人通过支票领取工资并扣除税款。*M. Chen的证词*。

Long Ze He的证词-

- 4.25. Long Ze He (He)曾与Wu一同在亚基马市的Kobe Sushi & Teriyaki工作。二人还共同居住在Chen的住所/宿舍。He现已从该餐厅离职。*Long Ze He的证词*（简称“He的证词”）。
- 4.26. Long Ze He称，其工资由Shi Jian Chen在餐厅通过支票发放，但有时也在Chen的住所/宿舍领取现金。*He的证词*。
- 4.27. Long Ze He回忆称，2023年9月21日Wu离职时，Shi Jian Chen以现金方式向其支付了约3,300美元。付款及Wu离职时，Shi Ji Chen、Rong Chen、Ming Fa Chen和Long Ze He均在场。*He的证词*。

Shengdong Wu的证词-

- 4.28. 工资索赔人Shengdong Wu (Wu)在被华盛顿州亚基马市的Kobe Sushi & Teriyaki雇佣时，居住在俄勒冈州波特兰市。*Shengdong Wu的证词*（简称“Wu的证词”）。
- 4.29. Wu宣称，因自己没有工作许可证，在工作中遭受欺凌，被要求承担两人的工作量，且工作时间未被正确记录。*Wu的证词*。
- 4.30. 2023年9月21日，Wu进入Chen的住所/宿舍后，因Shi Jian Chen辱骂其要求每月5,000美元工资一事引发争执。*Wu的证词*。
- 4.31. 由于2023年6月才刚到美国，Wu不了解需“精确到分钟”记录工作时间的要求。*Wu的证词*。

部门工资投诉调查

- 4.32. 2023年10月7日，Shengdong Wu (WU)向华盛顿州劳工与工商保险服务部（以下简称“部门”）提交了一份“劳动者权利投诉”。在投诉中，Wu声称其前雇主 - 位于华盛顿州亚基马市的Kobe Sushi & Teriyaki，在其2023年9月22日至2023年10月7日的雇佣期间，未支付协议工资及加班工资。Irene Davis的证词（简称“Davis的证词”）和部门证物4。
- 4.33. 2023年10月10日至2023年12月12日，部门劳资关系代理Irene Davis（代理Davis）对Wu的工资投诉展开调查，并同步记录调查笔记。Davis的证词和部门证物3。
- 4.34. 部门代理Davis指出，Wu的工资投诉“内容较为简略”，提供的信息有限，但列出了每小时27.00美元的工资率。Davis的证词。
- 4.35. Wu在工资投诉中附上了Google Map打印件。但这些截图未能证明实际“工作时数”。Davis的证词。
- 4.36. 2023年10月9日，部门向Wu致函，确认收到其工资投诉，并告知他部门将用60天时间开展调查。Davis的证词和部门证物5。
- 4.37. 2023年10月12日，部门向Wu致函，要求其补充与工资投诉相关的信息，包括工作时数补录、可能的证人名单、工资单复印件及其他能佐证其在Kobe Sushi & Teriyaki工作的雇佣信息。Davis的证词和部门证物6。
- 4.38. 2023年11月2日，Wu回应了部门的补充信息要求，提供的材料包括工作时数补录、短信记录复印件，以及其雇佣期间部分日期的Google行程地图截图。部门证物7。
- 4.39. 2023年11月3日，代理Davis基于Wu提供的信息，向其发送电子邮件，要求澄清工资率相关问题。Davis的证词和部门证物8。
- 4.40. 同日，代理Davis代表Kobe Sushi & Teriyaki致电并致函Shi Jian Chen，讨论Wu的工资投诉事宜。代理Davis向其发送了Wu的工资投诉的副本，并表示雇主可选择支付所主张的欠薪，或提供记录反驳该欠薪主张。Davis的证词和部门证物9。
- 4.41. 同日，代理Davis还向Wu发送了致Kobe Sushi & Teriyaki的函件副本。部门证物10。

- 4.42. 2023年11月4日，律师Samuel Gros通知代理Davis，将代表Kobe Sushi & Teriyaki处理Wu的工资投诉事宜。部门证物11.
- 4.43. 2023年11月6日，代理Davis就Wu声称其因争议工资及工作条件遭报复性解雇一事，向其发送电子邮件。基于Wu的回复，代理Davis告知他部门无权调查该报复性解雇索赔。部门证物12.
- 4.44. 2023年11月15日，Wu向代理Davis发送电子邮件，基于“税后净收入”修正其此前的工资计算。Wu计算得出，雇主欠付其年薪75,650美元。Davis的证词；Shengdong Wu的证词（简称“Wu的证词”）；以及部门证物13.
- 4.45. 部门代理Davis指出，雇主Kobe Sushi & Teriyaki否认曾同意向Wu支付每小时27.00美元的工资。Davis的证词。
- 4.46. 2023年11月16日，代理Davis联系Wu，告知其已按Wu最初主张的6,669.00美元工资诉求联系了Kobe Sushi & Teriyaki，而非其最新计算的欠薪8,983.20美元。Davis的证词和部门证物14.
- 4.47. 同日，Wu向代理Davis发送电子邮件，阐明其主张按每小时27元人民币计薪的理由，该金额相当于年薪75,650美元。Wu还附上了其与雇主的短信记录照片。Davis的证词；Wu的证词；以及部门证物15.
- 4.48. 部门代理Davis指出，Wu未提供任何佐证文件或信息，以证明Kobe Sushi & Teriyaki与Wu之间存在约定的工资率。Davis的证词。
- 4.49. 2023年11月20日，Wu向代理Davis发送电子邮件，附上菜谱照片，声称其在雇主餐厅担任炒锅厨师一职。Davis的证词和部门证物16.
- 4.50. 2023年11月22日，代理Davis通知双方，其调查将超过60天完成。部门证物17.
- 4.51. 2023年11月24日，律师Grosz代表Kobe Sushi & Teriyaki向代理Davis致函，反驳Wu陈述的事件经过及欠薪金额。Grosz的函件还附上了手写工时记录和雇员工资记录。Davis的证词和部门证物18.
- 4.52. 部门代理Davis指出，Wu的工作时间以手写记录为准。Davis的证词。
- 4.53. Kobe未否认Wu在2023年8月30日至2023年9月21日期间工作，但对Wu所称的“工作时数”提出异议。Davis的证词。

- 4.54. Shi Jian Chen代表Kobe Sushi & Teriyaki回忆称，Wu离职时，其以现金方式支付了3,344美元。*Davis的证词。*
- 4.55. 部门代理Davis在审查雇主提供的记录后指出，Kobe Sushi & Teriyaki员工的工资未如Wu所声称的超过每小时27.00美元。*Davis的证词。*
- 4.56. 部门代理Davis指出，Kobe所有者与Wu之间仅存在口头争议。不存在集体谈判协议。*Davis的证词。*
- 4.57. 2023年11月28日，代理Davis向律师Grosz发送电子邮件，并附上最终催款函。代理Davis计算得出，Kobe欠付Wu共计4,977.75美元。Wu已从雇主处收取3,344.00美元，尚有1,633.75美元未付。代理Davis还随附了Wu的工资投诉材料及工资计算表副本。*Davis的证词和部门证物19。*
- 4.58. 部门代理Davis认定，Wu的“小时工资率”是其薪资总额的拆分计算结果。然而，Kobe于2023年9月5日提高了其小时工资率。*Davis的证词。*
- 4.59. 同日，代理Davis向WU发送电子邮件，告知已向雇主发出最终催款函，并附上发送给雇主的全部文件材料。*部门证物20。*
- 4.60. 作为回应，Wu于2023年11月28日向代理Davis发送电子邮件，对欠薪金额提出异议，坚持声称仍被欠付8,983.20美元。*部门证物21。*
- 4.61. 2023年11月29日，Wu再次向代理Davis发送电子邮件，对雇主提交的工作时间表提出异议，并称其为伪造文件。*部门证物22。*
- 4.62. 2023年12月5日，代理Davis与律师Grosz通过电子邮件沟通，涉及可佐证雇主陈述的证人名单事宜。*Davis的证词和部门证物23。*
- 4.63. 作为Wu工资投诉调查的一部分，部门代理Davis联系了雇主列出的证人。她将证人询问内容记录在调查“案件笔记”中。*Davis的证词。*
- 4.64. 2023年12月8日，律师Grosz按部门认定的欠薪金额，提供了金额为1,633.75美元的支票。*Davis的证词和部门证物24。*
- 4.65. 同日，代理Davis通知Wu，部门已收到雇主支付的1,633.75美元支票。她要求Wu签署工资发放表，以换取该笔付款。*Davis的证词和部门证物25。*

- 4.66. 若工资索赔人Wu接受雇主的1,633.75美元支票，部门的调查将终结且案件结案。若不接受，部门将出具“合规裁决”。*Davis的证词。*
- 4.67. 2023年12月11日，Wu以“雇主伪造时间表及本人签名”为由，拒绝接受雇主的1,633.75美元付款。*部门证物26。*
- 4.68. 2023年12月12日至15日，代理Davis与Wu通过电子邮件沟通，内容涉及1,633.75美元支票将保存60天，以及将出具“合规裁决”事宜。Wu询问了撤回工资投诉并对雇主采取其他法律行动的相关事宜。*部门证物27。*
- 4.69. 2023年12月12日，因无法证实Wu的指控且雇主已全额支付工资，代理Davis发布“合规裁决代理摘要”，建议出具“合规裁决”，理由是“雇主[Kobe Sushi & Teriyaki]已提供充分信息，证明索赔人[Wu]已获付所有工作时数的全部工资”。*Davis的证词和部门证物28。*
- 4.70. 经调查，部门代理Davis认定，Kobe已记录Wu的“工作时数”，并就Wu经授权或被要求到岗、值班或在雇主场所/工作地点期间的所有“工作时数”支付了工资。*Davis的证词。*
- 4.71. 部门代理Davis另认定，仅凭Wu的欠薪指控及Google Map截图，不足以证明Kobe未支付其任何应付工资。*Davis的证词。*
- 4.72. 根据部门调查结论，Kobe已向Wu支付全部应付工资，不欠付任何额外工资。*Davis的证词。*
- 4.73. 2024年2月1日，部门向Wu和Kobe Sushi & Teriyaki出具“合规裁决#047- 24”(DOC)。部门认定，Kobe Sushi & Teriyaki不欠付Wu2023年8月30日至2023年9月21日工作期间的协议工资及加班工资共计7,349.45美元。*部门证物1。*

[续]

5. 法律裁定：

基于上述“事实认定”，作出如下“法律裁定”：

管辖权-

5.1. 根据RCW 49.48.084(3)和RCW第34.05章之规定，行政听证处对本案当事人及标的的事项具有管辖权。

质疑“合规裁决”的举证责任与证明标准-

5.2. 在对“合规裁决”提出异议时，上诉方负有举证责任，需以“证据优势”（即“更有可能成立”的证明标准）证明部门的“合规裁决”存在错误。*MacSuga v. County of Spokane*, 97 Wn.App.435, 445-446, 983 P.2d 1167 (1999)。

5.3. 在本案中，上诉人/工资索赔人Shengdong Wu需以“证据优势”证明部门于2024年2月1日作出的“合规裁决第047-24号”存在错误。

劳工与工商保险服务部相关法律法规-

5.4. 劳工与工商保险服务部负责实施及执行RCW第49.46、49.48、49.52章及《华盛顿行政法规》(WAC)第296篇中关于工资的条款，旨在保护华盛顿州民众当前和未来的健康、安全和福祉。

5.5. 部门的职权包括执行以下工资支付规定：

(a) 支付最低工资（RCW 49.46.020及WAC第296-128章）；(b) 支付每周工作超过40小时的加班工资(RCW 49.46.130)；(c) 支付最终工资(RCW 49.48.010)；(d) 从工资中依法扣除款项(RCW 49.52.060)；以及 (e) 执行任何由法令、条例和/或合同授权的工资规定(RCW 49.52.050)。

5.6. 若雇主向员工支付的工资低于其应得数额，雇主须就该等工资的全额向员工承担责任。RCW 49.46.090(1)。

5.7. RCW 49.46.130关于加班费的规定要求，雇主须按正常工资率的一点五倍，支付员工每周工作超过40小时的所有工时工资。

5.8. WAC 296-128-550允许，若双方约定以计件工资的一点五倍作为加班费率，则可按该约定费率支付加班费，而非正常工资率。

上诉人Wu未能证明“合规裁决”存在错误

5.9. 在本案中，上诉人/工资索赔人Shengdong Wu声称，其前雇主Kobe Sushi & Teriyaki未支付其2023年8月30日至2023年9月21日工作期间的协议工资及加班工资，金额共计8,983.20美元。

5.10. 然而，在事实调查证据听证会上，部门通过已采纳的证物及佐证的证人证词，就Shengdong Wu在Kobe Sushi & Teriyaki的雇佣相关事件提供了可信证据。

5.11. 本署行政法法官认定，上诉人/工资索赔人Shengdong Wu未能提供充分证据，以证明除部门已建议支付的工资外，仍存在其他欠薪。据此，雇主Kobe Sushi & Teriyaki已向Wu支付全部“工时”的工资。

5.12. 因此，上诉人负有以“证据优势”（即“更有可能成立”）证明部门于2024年2月1日作出的“合规裁决第047-24号”存在错误的举证责任。上诉人未能提供充分证据推翻部门于2024年2月1日作出的“合规裁决第047-24号”。

5.13. 上诉人/工资索赔人Shengdong Wu未能以“证据优势”（即“更有可能成立”）证明部门于2024年2月1日作出的“合规裁决第047-24号”存在错误。

5.14. 劳工与工商保险服务部于2024年2月1日作出的“合规裁决第047-24号”予以**维持**。

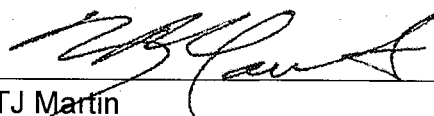
6. 最初裁决令：

本行政法庭裁决如下：

6.1. 上诉人/工资索赔人Shengdong Wu未能以“证据优势”证明部门于2024年2月1日作出的“合规裁决第047-24号”存在错误。

6.2. 劳工与工商保险服务部于2024年2月1日作出的“合规裁决第047-24号”予以**维持**。

本裁决令于华盛顿州奥林匹亚市签发，签发日期以邮寄日期为准。



TJ Martin
行政法法官
行政听证处

附送达回证

上诉权利

复申请愿

任何对本最初裁决令有异议的当事人，均可向劳工与工商保险服务部部长提交请愿书。¹您可以通过电子邮件将复申请愿书发送至部长邮箱directorappeal@lni.wa.gov。您也可以将复申请愿书邮寄或投递至下列部门部长的实际地址。

邮寄地址:

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

实际地址:

7273 Linderson Way SW
Tumwater, WA 98501

若通过电子邮件提交复申请愿书，则无需向部长邮寄或投递纸质副本。

无论以电子邮件、邮寄或投递方式提交复申请愿书，部长**必须**在本最初裁决令邮寄给各方当事人之日起**30日内**，于办公时间内在其办公室**实际收到**该请愿书。您还必须同时向其他当事人提供复申请愿书副本。

若部长未在最初裁决令送达之日起**30日内**收到复申请愿书，该最初裁决令将成为最终裁决，不得再行上诉。²

若您及时提交复申请愿书，部长将依据RCW第34.05章开展行政复审。

¹ RCW 49.48.084和RCW 34.05.464。

² RCW 49.48.084和RCW第34.05章。

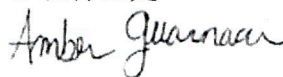
OAH案卷编号05-2024-LI-02131送达回证

本人在此证明，本文件的真实副本已通过以下任一方式从华盛顿州奥林匹亚市经综合邮政服务送达至下列当事人：一类邮件、挂号信、信使面递、校园邮件、传真或电子邮件。

Shengdong Wu 36411 Cabrillo Dr Fremont, CA 94536 上诉人/工资索赔人	<input type="checkbox"/> 一类邮件 <input checked="" type="checkbox"/> 挂号信（附回执） <input type="checkbox"/> 校园邮件 <input checked="" type="checkbox"/> 电子邮件： centralia.us@gmail.com
Kobe Sushi & Teriyaki Inc dba Kobe Sushi & Teriyaki c/o Xuan Xuan Chen 1905 S. 1st St., Ste. 102 Yakima, WA 98903 介入方/雇主	<input checked="" type="checkbox"/> 一类邮件 <input type="checkbox"/> 挂号信（附回执） <input type="checkbox"/> 校园邮件 <input type="checkbox"/> 电子邮件地址
Samuel Grosz Samuel David Law 210 SW Morrison St., Ste. 500 Portland, OR 97204 介入方代表	<input type="checkbox"/> 一类邮件 <input type="checkbox"/> 挂号信（附回执） <input type="checkbox"/> 校园邮件 <input checked="" type="checkbox"/> 电子邮件： samuel@samueldavidlaw.com aimee@samueldavidlaw.com
Kendra E. Sheedy, AAG Office of the Attorney General 800 Fifth Ave Ste 2000 Seattle, WA 98104 机构代表	<input type="checkbox"/> 一类邮件 <input type="checkbox"/> 挂号信（附回执） <input type="checkbox"/> 校园邮件 <input checked="" type="checkbox"/> 电子邮件 Kendra.Sheedy@atg.wa.gov rory.pela@atg.wa.gov lniseaeservice@atg.wa.gov

日期：2025年1月16日（星期四）

行政听证处



Amber Guarnacci
法律助理3