



THE CITY OF NEW YORK
DEPARTMENT OF CONSUMER AND WORKER PROTECTION

NYC DEPARTMENT OF CONSUMER
AND WORKER PROTECTION,

Petitioner,

-against-

RETEG ELECTRIC, INC. and SRULY
GETTER,

Respondents.

OATH Index No. 1186/20

Final Agency Decision

On March 29, 2021, Administrative Law Judge Kara J. Miller of the Office of Administrative Trials and Hearings (“OATH”) issued a Report and Recommendation in the above-captioned matter. OATH recommended that Respondents be liable for \$624 in unpaid sick time to employee L.G. Gonzalez Reyes; \$22,884 for unlawful termination for wages and benefits lost until she secured new employment; and \$3,000 in civil penalties to the City of New York.

The Department of Consumer and Worker Protection (“Department”) now issues this Final Agency Decision pursuant to section 2203(h)(1) of the New York City Charter and section 6-02 of title 6 of the Rules of the City of New York.

In a written argument to the Department pursuant to section 6-02(d) of the Rules of the City of New York, Petitioner argues that OATH used an incorrect method for calculating unpaid sick time owed to the employee under section 20-924(d)(i) of title 20 of the New York City Administrative Code.¹ Petitioner argues that OATH calculated the unpaid sick time award based on the total cumulative hours of unpaid sick time rather than each day of unpaid sick time. The Department did not receive a written argument from Respondents.

Any error by OATH in calculating the unpaid sick time owed to L.G. Gonzalez Reyes is harmless. *See* N.Y. C.P.L.R. § 2002. The unpaid sick time of \$624 awarded to the employee would be the same under OATH’s allegedly erroneous calculation and under the calculation urged by Petitioner. Accordingly, the Department adopts OATH’s Report and Recommendation without modification.

¹ Section 20-924(d)(i) states: “[F]or each instance of safe/sick time taken by an employee but unlawfully not compensated by the employer: three times the wages that should have been paid under this chapter or two hundred fifty dollars, whichever is greater...”

CONCLUSION

OATH's Report and Recommendation is adopted without modification. Respondents are ordered to pay \$23,508 to employee L.G. Gonzalez Reyes and \$3,000 in civil penalties to the City of New York.

A handwritten signature in blue ink, appearing to read "Peter Hatch", written over a horizontal line.

Date: 9/15/2021

Peter Hatch
Commissioner
Department of Consumer and Worker Protection