

SUPREME COURT OF MONTANA

Oliver W. Arlington v. Miller's Trucking, Inc.

2017 MT 102N · No. DA 16-0719 · Decided May 2, 2017

SUMMARY

The Montana Supreme Court affirmed the District Court’s judgment upholding an agency decision awarding Oliver W. Arlington unpaid overtime and minimum wages, plus a penalty, in his wage dispute with Miller’s Trucking, Inc. The court held that the Hearing Officer correctly calculated wages under the pieceworker method and properly applied the reduced penalty provision.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Jim Rice; James Jeremiah Shea; Beth Baker; Laurie McKinnon; Dirk M. Sandefur
JURISDICTION	Montana
DECIDED	May 2, 2017
DOCKET	DA 16-0719
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from the District Court's order affirming a final agency decision of the Montana Department of Labor and Industry Hearing Officer on Arlington's wage and overtime claims.
STANDARD OF REVIEW	The Court applies the same standards as the district court when reviewing an order affirming or reversing an agency decision: it determines whether the agency's factual findings are supported by substantial evidence and whether the agency correctly determined the law.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion; expressly designated noncitable under Montana Supreme Court Internal Operating Rules.
PARTIES	Oliver W. Arlington v. Miller's Trucking, Inc.

TOPICS

- wage and hour
- flsa
- judicial review of agency action
- appellate procedure

PRACTICE AREAS

employment law

wage and hour

administrative law

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the Hearing Officer correctly calculated Arlington's unpaid wages and overtime under the pieceworker method following the Court's prior remand.
2. Whether the Hearing Officer correctly determined that a penalty of 55 percent of wages owed would apply if Miller's Trucking paid within 30 days, rather than the otherwise applicable 110 percent penalty.
3. Whether the District Court properly affirmed the agency decision under the substantial-evidence and legal-correctness standards.

HOLDINGS

1. The District Court did not err in affirming the Hearing Officer's interpretation and application of the pieceworker method to calculate Arlington's wages and overtime.
2. The Hearing Officer properly determined that the penalty could be reduced to 55 percent of the wages owed if Miller's Trucking paid the wages within 30 days.
3. The District Court did not err in affirming the Hearing Officer's findings and legal conclusions.

KEY QUOTATIONS

“A reviewing body’s standard on review ‘is not whether there is evidence to support findings different from those made by the trier of fact, but whether substantial credible evidence supports the trier’s findings.’” (¶ 7)

“‘Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion. It consists of more [than] a mere scintilla of evidence but may be less than a preponderance.’” (¶ 7)

FACTUAL BACKGROUND

Arlington worked for Miller's Trucking as a log truck driver and loader operator from September 2008 through August 2009. He claimed unpaid wages and overtime based on an alleged oral agreement to earn \$60,000 to \$70,000 annually. On remand, the Hearing Officer accepted Arlington's position regarding hours worked, calculated a baseline hourly wage using the 25 percent load rate and the analogous pieceworker method, ensured minimum-wage compliance, and awarded \$7,417.39 in unpaid overtime and minimum wages, plus a penalty.

PROCEDURAL HISTORY

Arlington brought wage and overtime claims against Miller's Trucking based on an alleged oral annual-wage agreement. After earlier appeals and remands, the Hearing Officer calculated unpaid overtime and minimum wages using the pieceworker method and imposed a 110 percent penalty, reduced to 55 percent if payment occurred within 30 days. The District Court affirmed the final agency decision, and Arlington appealed again.

DISPOSITION

affirmed

CASES CITED

- Arlington v. Miller's Trucking, 2012 MT 89, ¶ 46, 364 Mont. 534, 277 P.3d 1198
- Arlington v. Miller's Trucking, 2015 MT 68, ¶ 37, 378 Mont. 324, 343 P.3d 1222
- Ostergren v. Dep't of Revenue, 2004 MT 30, ¶ 11, 319 Mont. 405, 85 P.3d 122
- Blaine County v. Stricker, 2017 MT 80, ¶ 26
- Schmidt v. Cook, 2005 MT 53, ¶ 31, 326 Mont. 202, 108 P.3d 511
- State Pers. Div. v. Child Support Investigators, 2002 MT 46, ¶ 19, 308 Mont. 365, 43 P.3d 305

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