SUPREME COURT OF NEW HAMPSHIRE

New England Homes, Inc. v. R. J. Guarnaccia Irrevocable Trust

150 N.H. 732 (2004) · Decided April 16, 2004

SUMMARY

The New Hampshire Supreme Court reviewed consolidated appeals concerning unpaid commissions and liquidated damages awarded to former regional sales managers under New Hampshire wage statutes. The court held that commissions were earned when the employer accepted the orders, rejected the challenge to one commission award, ordered consideration of a volume discount in calculating another award, and reversed the liquidated-damages awards because the employer had a bona fide belief that no commissions were owed. The case was affirmed in part, reversed in part, and remanded.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Brock, C.J., retired, specially assigned under RSA 490:3; Brock, C.J.; Broderick, C.J.; Nadeau, J.; Dalianis, J.; Duggan, J.
JURISDICTION	New Hampshire
DECIDED	April 16, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	New England Homes appealed two orders of the New Hampshire Superior Court upholding, with reduced awards, Department of Labor rulings awarding former employees unpaid commissions and liquidated damages.
STANDARD OF REVIEW	The court affirmed factual findings unless unsupported by the evidence and reviewed legal rulings for errors of law. It reviewed the Superior Court's determination regarding the evidentiary record for support in the evidence and reviewed the liquidated-damages ruling as a question of law.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	New England Homes, Inc. v. R. J. Guarnaccia, George Cooley, R. J. Guarnaccia Irrevocable Trust

TOPICS

wage and hour · employment contracts · contract interpretation · administrative law · appellate procedure

PRACTICE AREAS

employment law · contracts · administrative law · remedies · appellate procedure

QUESTIONS PRESENTED

1. Whether commissions were earned when New England Homes accepted the employees' orders or only when the homes were later delivered and paid for.
2. Whether the commission award properly included Guarnaccia's sale of a home owned by Donahue Realty Trust.
3. Whether the Superior Court erred by excluding a timely submitted volume-discount schedule when calculating Cooley's commissions.
4. Whether New England Homes acted willfully and without good cause so as to justify liquidated damages under RSA 275:44, IV.

HOLDINGS

1. A commission-based employee who solicits sales orders is generally entitled to a commission when the employer accepts the order, even if payment is delayed until after shipment or delivery. The parties may alter that rule only through a written agreement or conduct that unambiguously establishes a different compensation scheme. New England Homes's Letter of Understanding and conduct did not unambiguously alter the rule.
2. The Superior Court did not pierce the corporate veil by including the Donahue Realty Trust home in calculating Guarnaccia's commission; the evidence supported the finding that Guarnaccia sold the home on behalf of New England Homes.
3. The Superior Court erred by refusing to consider New England Homes's volume-discount schedule because the hearing record had expressly been left open for that evidence and the schedule was filed before the deadline.
4. Liquidated damages were improper because New England Homes had a bona fide belief, based on the ambiguity in the Letter of Understanding, that it did not owe the commissions. An employer cannot have acted willfully and without good cause when its refusal to pay wages rests on such a bona fide belief.

KEY QUOTATIONS

> *“a person employed on a commission basis to solicit sales orders is entitled to his commission when the order is accepted by his employer. The entitlement to commissions is not affected by the fact that payment for those orders may be delayed until after they have been shipped.”* (150 N.H. at 735-736)

> *“If the plaintiff desired to make regional sales managers’ commissions dependent upon completion of the sale — including shipment, delivery, and payment — “it could have provided for such a contingency in clear and unambiguous language.””* (150 N.H. at 736)

> *“Thus, no liquidated damages are available when an employer’s refusal to pay wages is based upon bona fide belief that he is not obligated to pay them.”* (150 N.H. at 740)

FACTUAL BACKGROUND

Guarnaccia and Cooley worked as regional sales managers for New England Homes and resigned in February 2002. Their commissions were governed by a Letter of Understanding, and both had obtained accepted orders for modular homes before resigning, although some homes were delivered and paid for later. Guarnaccia and Cooley filed wage claims alleging that New England Homes failed to pay commissions required by New Hampshire law; the Department of Labor awarded commissions and liquidated damages to both employees.

PROCEDURAL HISTORY

Guarnaccia and Cooley filed separate wage claims with the New Hampshire Department of Labor after resigning from New England Homes. Following hearings, the Department awarded each employee unpaid commissions and liquidated damages. The Superior Court upheld the awards but reduced their amounts, after which New England Homes appealed; the Supreme Court affirmed in part, reversed in part, and remanded.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

Remand for the Superior Court to reduce Cooley's commission award by the appropriate volume discount and to reverse the liquidated-damages awards; the commission awards otherwise remain affirmed.

CASES CITED

- Richmond v. Hutchinson, 149 N.H. 749, 751-752 (2003)
- Galloway v. Chicago-Soft, 142 N.H. 752, 756-758 (1998)
- Vector Engineering & Manufacturing Corp. v. Pequet, 431 N.E.2d 503, 504-505 (Ind. Ct. App. 1982)
- Oken v. National Chain Co., 424 A.2d 234, 235-236 (R.I. 1981)
- Diana v. Burnside Motors, Inc., 304 A.2d 222, 224 (Conn. C.P. 1973)
- N.A.P.P. Realty Trust v. CC Enterprises, 147 N.H. 137, 139 (2001)
- Norwood Group v. Phillips, 149 N.H. 722, 724 (2003)
- Vogel v. Vogel, 137 N.H. 321, 322 (1993)
- Chisholm v. Ultima Nashua Industrial Corp., 150 N.H. 141, 145-146 (2003)
- Ives v. Manchester Subaru, Inc., 126 N.H. 796, 802 (1985)
- Potvin v. Wright's Sound Gallery, Inc., 568 So. 2d 623, 627-628 (La. Ct. App. 1990)

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