



COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT – DIVISION
CIVIL ACTION No. 16-CI- 3758

WILLIAM ASPERI

PLAINTIFF

vs.

**Complaint
Jury Trial Demanded**

VENTURE FOODS, LLC, d/b/a/ Lexeatin

DEFENDANT

Serve: Robert A. Hamilton
152 East Reynolds Rd., Suite 104
Lexington, KY 40517-1261
(agent for service of process)

* * * * *

Plaintiff William Asperi for his complaint against defendant Venture Foods, LLC, d/b/a Lexeatin states as follows:

I

Nature of the Action

1. This is an action pursuant to KRS Chapter 337 seeking recovery of unpaid wages and overtime compensation, liquidated damages, attorney’s fees, costs, litigation expenses and prejudgment interest.

II

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to KRS 23.010, because the amount in controversy exceeds this Court’s jurisdictional minimum. Venue is proper in Fayette Circuit Court, because defendant maintains a place of business in Fayette County and the events giving rise to the plaintiff’s claims occurred in Fayette County.

III

Parties

3. Plaintiff William Asperi is a resident of Garrard County, Kentucky. He was, at all times pertinent to this case, employed by defendant in Fayette County, Kentucky.

4. Defendant Venture Foods, LLC is a limited liability company organized under the laws of Kentucky, according to information available through the office of the Kentucky Secretary of State. According to those same records, defendant maintains a place of business in Fayette County, Kentucky, and its agent for service of process is Robert A. Hamilton, who may be served at 152 East Reynolds Rd., Suite 104, Lexington, KY 40517.

IV

Facts Giving Rise to the Lawsuit

5. Defendant was, at all times pertinent to this case, the employer of plaintiff within the meaning of KRS 337.010(1)(d).

6. Plaintiff was, at all times pertinent to this case, an "employee" of defendant within the meaning of KRS 337.010(1)(e).

7. At all times pertinent to this case, Asperi was employed by defendant as a food delivery driver.

8. At times during his employment by defendant, Asperi was required to work and did work regularly in excess of forty (40) hours per workweek.

9. Defendant knew, required, approved and/or suffered Asperi to work in excess of forty (40) hours per workweek at times during his employment.

10. Defendant required Asperi to work more than forty (40) hours per workweek without paying him overtime compensation even though Asperi was employed in a nonexempt position.

11. Upon termination of Asperi's employment with defendant, defendant unlawfully withheld and refused to pay Asperi \$1,000.00 in earned wages.

12. Defendant willfully and intentionally required, approved and/or suffered Asperi to work more than forty (40) hours per workweek, while willfully and unlawfully failing to pay him overtime compensation as required by KRS Chapter 337.

V

Cause of Action

Count 1 – Failure to Pay Overtime and Wages

13. Plaintiff incorporates and realleges herein the preceding paragraphs 1 – 12 as if fully set forth herein.

14. Under KRS Chapter 337, defendant was required to compensate Asperi for all hours worked in excess of forty (40) hours per workweek.

15. KRS Chapter 337 requires that overtime compensation be paid at a rate not less than one and one-half (1.5) the regular rate of pay of Asperi.

16. For purposes of calculating overtime compensation, KRS Chapter 337 provides that the regular rate of pay includes all remuneration for employment paid to or on behalf of the employee.

17. As a result of defendant's policy and practice of failing to pay overtime compensation, Asperi has been damaged in that he has not been paid by defendant the overtime compensation that he has earned.

18. Upon the termination of Asperi's employment, defendant unlawfully withheld and refused to pay Asperi \$1000.00 in wages Asperi had earned.

19. As a result of defendant's failure and refusal to pay Asperi his earned wages, Asperi has been damaged in that he has not been paid by defendant the wages that he has earned.

20. Defendant's failure to pay Asperi the wages and overtime compensation he earned was a willful and intentional violation of KRS Chapter 337.

VI

Demand for Judgment

Wherefore, plaintiff William Asperi demands judgment against defendant as follows:

(1) entry of a judgment in his favor and against defendant requiring defendant to pay him the overtime compensation and wages due and owing him along with an additional equal amount as liquidated damages as shown by the evidence at trial;

(2) entry of a judgment awarding him prejudgment interest on his unpaid wages and overtime compensation along with the costs, litigation

expenses and reasonable attorney's fees pursuant to KRS 337.385 and CR 54;
and,

(3) the grant of all other relief to which he is shown entitled.

Demand for Jury Trial

Plaintiff demands trial by jury on all issues herein so triable.

Respectfully submitted,



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