**Section 300.640 Refusal to Pay Wages or Final Compensation**

a) The duty to pay wages or final compensation arises out of a contract of employment, an employment policy, or an agreement between the parties. The Department will make a determination in accordance with Subpart F or G as to whether the duty to pay exists.

b) An employer doing business at the time the duty to pay wages or final compensation arises is presumed to have the ability to pay.

c) A willful refusal to pay is a voluntary, conscious and intentional act. An employer who subordinates the wage claims of employees to the claims of other creditors has willfully refused to pay wages or final compensation, in violation of the Act.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)