

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

[2017] NZERA Wellington 2  
5638399

BETWEEN            GURWINDER SINGH BATTH  
                                 Applicant  
  
AND                    MANHAAS INDUSTRIES (2000)  
                                 LIMITED  
                                 Respondent

Member of Authority:    Trish MacKinnon  
  
Representatives:         Applicant in person  
                                 Michael Manhaas for the Respondent  
  
Investigation Meeting:    18 January 2017 in Auckland  
  
Determination:            18 January 2017

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**ORAL DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

1. Gurwinder Singh Batth resigned his employment effective from 9 May 2016 and claims he is owed wage arrears and annual leave. He seeks recovery of those sums.
2. Manhaas Industries (2000) Limited (Manhaas) acknowledges it owes wage arrears and holiday pay to Mr Batth. It says, through its sole director Michael Manhaas, it is in financial difficulties and is unable to pay the amount it owes immediately. It says it offered to pay Mr Batth by way of weekly instalments but he insisted the payment be made in one lump sum.
3. Mr Batth says he has been told previously by Manhaas he would be paid his holiday and wage entitlements by instalments but none were made and he

wishes to receive his wage and holiday arrears in one lump sum in order to pay debts he has accumulated since his employment ended.

4. Mr Manhaas did not provide any wage, time or holiday records as I had requested in the course of a telephone conference with the parties in November 2016. He told me the respondent company is no longer operating<sup>1</sup> and he is not sufficiently computer literate to retrieve the records. He agreed with Mr Batth that Manhaas owed him five weeks' wages and that Mr Batth had worked 207 hours over those five weeks. At a rate of pay of \$17 per hour, the wage arrears owing are \$3,519 gross.
5. Holiday pay on the outstanding wages is \$281.52. Additionally, Mr Batth claims he was not paid holiday pay from January 2015 to the end of his employment in May 2016. Mr Manhaas agreed holiday pay was owing for the period and that was confirmed by the pay slip information provided to the Authority by Mr Batth. I have calculated that on the basis of the provisions of the Holidays Act 2003 the amount of holiday pay owing for that period is \$2,949.14 gross.
6. Mr Manhaas has produced no documentary evidence to support his claim that Manhaas is unable to pay Mr Batth the monies owing to him. In the course of the investigation meeting he informed me that all Manhaas's other employees, of whom there were six, had agreed to receive their wage arrears in instalments. He said most had now been paid in full, with only one outstanding payment to be made this week to the last of the six employees.
7. It is eight months since Mr Batth resigned from his employment. If Manhaas was able to pay its other employees their wages arrears, albeit by instalments, there is no reason it could not have set aside amounts for Mr Batth and paid him in one lump sum in the intervening period. Its failure to do so suggests it did not value Mr Batth's work as much as it valued that of its other employees. Alternatively, it suggests it believed it could simply not pay him and hope he would not pursue the matter.

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<sup>1</sup> The company is still listed on the Companies Office Register

8. I find it would be unfair for Mr Bath to wait any longer for the wages and holiday pay to which he is entitled. Accordingly I order Manhaas Industries (2000) Limited to pay the following sums to Mr Bath:

- (a) Wage arrears in the sum of \$3,519.00 plus holiday pay on that amount of \$281.52;
- (b) Holiday pay, other than on the wage arrears, of \$2,949.14.

9. I order Manhaas to pay those amounts to Mr Bath by 1 February 2017.

**Costs**

10. As each party represented itself, there is no issue as to costs for legal representation. However, Mr Bath is entitled to recover the Authority filing fee and Manhaas Industries (2000) Limited is accordingly ordered to reimburse Mr Bath the sum of \$71.56.

Trish MacKinnon  
Member of the Employment Relations Authority