

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN David Baugh (Applicant)
AND Edwards Transport Limited (Respondent)
REPRESENTATIVES David Baugh, In person
Garry Edwards, Advocate for Respondent
MEMBER OF AUTHORITY Ken Anderson
ON THE PAPERS Written and oral communications from 19 October 2004
to 25 January 2006
28 February 2006
DATE OF DETERMINATION

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

- [1] This matter came to the Authority via a *Statement of Problem* filed on 19 October 2004. At that time Mr Baugh sought to be paid various wages and holiday pay. Over a subsequent and lengthy period of time, Mr Baugh received all payments due to him except for the payment of two week's wages that he claims are due to him for the period beginning Monday 30 August 2004 to Friday 10 September 2004.
- [2] The Authority has had available to it the bank statements of Mr Baugh for the relevant periods and also the *Driving Hours Log Book* has been viewed. On the basis of an analysis of those documents, I concluded that Mr Baugh did work and has not been paid for the period in question.
- [3] Mr Edwards was invited to make a submission as to why Mr Baugh is not entitled to be paid what appears to be owing to him, but nothing has been forthcoming within the timetable given. From the *Statement in Reply* filed by Mr Edwards, it appears that he takes issue with the manner in which Mr Baugh gave notice of his resignation and then continuing to work after the date that was indicated in the notice. Mr Edwards also alludes to the cost of damage to equipment that is alleged to have been incurred by Mr Baugh, but there is no evidence of any sustainable reason why Mr Baugh should not be paid for the time he has worked.

Determination

- [4] I conclude that Mr Baugh is entitled to be paid for the final two weeks that he worked for Edwards Transport Limited – the period from 30 August 2004 to Friday 10 September 2004.

Given that Mr Baugh's weekly wage fluctuated, the actual sum due to him is a little difficult to accurately assess. However, the fortnightly sum paid by direct credit appears to be, on average, around the sum of \$1,150.00.

Edwards Transport Limited is ordered to pay to Mr Baugh the nett sum of **\$1,150.00**.

Costs

- [5] Mr Baugh is entitled to be paid the application fee paid to the Authority. Edwards Transport Limited is ordered to pay to Mr Baugh the sum of **\$70.00**.

Ken Anderson
Member
Employment Relations Authority