



to contact Mr Aaron Smith who had previously been in contact with the Authority but no response was received.

[5] Hair Smith Ltd has not shown good cause for its failure to appear or be represented. After waiting for 30 minutes in the off chance that the respondent had been held up in traffic, I proceeded under clause 12 of Schedule 2 to the Employment Relations Act 2000 to hear and determine the matter as if Hair Smith had attended or been represented.

### **Terms and conditions of employment**

[6] Ms Botes commenced employment with Hair Smith on 21 August 2007. There was no written employment agreement. Ms Botes was engaged on a commission only basis. From the outset Ms Botes was to be paid 40% of the income she generated. On 6 November 2007 the commission rate was increased to 45%.

### **Outstanding Wages and Holiday Pay**

[7] Ms Botes claims only the final week's payment based on the income she generated for the week 4 – 8 December 2007. I am satisfied Ms Botes generated income of \$1,670.40 for the week. The amount of \$751.68 gross remains outstanding.

[8] To that is to be added the holiday pay to which Ms Botes had become entitled at the end of the employment relationship. Based on the income figures provided to me by Ms Botes calculated by the commission payments due to her Ms Botes is entitled to \$836.98 in outstanding holiday pay.

### **Orders**

**[9] Hair Smith Limited is ordered to pay to Ms Botes, within 14 days of the date of this determination, the sum of \$1588.56 gross being unpaid wages and holiday pay, pursuant to section 131 of the Employment Relations Act 2000.**

**[10] Ms Botes is entitled to reimbursement of the Authority's filing fee of \$70.00. Hair Smith Limited is ordered to pay her that amount within 14 days of the date of this determination.**

Vicki Campbell  
Member of Employment Relations Authority