

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Carlos Clements (Applicant)

AND Camand Holdings Limited (Respondent)

REPRESENTATIVES Applicant by phone conference
Respondent by phone conference

MEMBER OF AUTHORITY Philip Cheyne

TELECONFERENCE 19 May 2006

DATE OF DETERMINATION 30 May 2006

SUPPLEMENTARY DETERMINATION OF THE AUTHORITY

[1] In a determination dated 18 January 2006, I ordered Camand Holdings Limited to pay arrears of salary to Mr Clements. I was not then able to quantify the exact amount owed so I reserved leave for the parties to revert to the Authority if there was any difficulty.

[2] In a letter to the Authority received on 10 May 2006, Mr Clements asked the Authority to determine the quantum of wages owed as he had been unable to make any headway and had learnt that the business owned by the respondent was on the market. His letter was sent to the respondent and arrangements were made for a phone conference. There is an email from Mr Cameron Mouat, the respondent's principal, advising that he would participate in the call and giving the Authority the phone number. However, when the Authority attempted to contact Mr Mouat, the call was twice answered by an answer phone. I decided to speak to Mr Clements without giving the respondent a further opportunity to participate.

[3] Shortly after the call with Mr Clements ended, I was advised that Mr Mouat had left a message on the support officer's phone. We then rang Mr Mouat, explained the discussion with Mr Clements and, after considering Mr Mouat's comments, I allowed him until 4.00 pm on Friday 26 May 2006 to send me documents to establish the truth of his claim to have already paid some of the claimed amounts to Mr Clements. That was confirmed in a letter to Mr Clements and copied to Mr Mouat. Nothing has been received since from Mr Mouat. Accordingly, I will fix the quantum as requested by Mr Clements.

[4] Cammand Holdings Limited is to pay to Mr Clements \$5,500.00 being an additional \$1,000.00 per month for the 5½ months he worked as chef in accordance with findings in paragraph 27 of the original determination. Arrears for Mr Clement's last week of work are also to be paid. That is a sum of \$1,038.00 (\$54,000 pa for one week). Mr Clements is entitled to holiday pay at 6% on those arrears, a sum of \$392.28. I accept what Mr Clements says about not receiving any holiday pay even calculated on what had been paid to him. I estimate he was paid \$19,250.00

during the time he worked as chef, so holiday pay on that sum is \$1,155.00. I have no information about payments during the earlier period of employment.

Summary

[5] To summarise, Cammand Holdings Limited is to pay Mr Clements arrears of salary of \$6,538.00 and arrears of holiday pay of \$1,547.28.

[6] Cammand Holdings Limited is also to pay Mr Clements interest on both sums at the rate of 9% per annum starting on 12 January 2005 until the arrears are paid in full.

Philip Cheyne
Member of Employment Relations Authority