

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Timothy Robert Clephane (Applicant)
AND Nexus Net Ltd (Respondent)
REPRESENTATIVES Timothy Robert Clephane in person
Donna Mackle, Director for Respondent
MEMBER OF AUTHORITY Y S Oldfield
INVESTIGATION MEETING 23 May 2005
DATE OF DETERMINATION 23 May 2005

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

Mr Clephane has come to the Authority seeking recovery of unpaid wages and holiday pay. Originally he named Donna Mackle as his employer but at my meeting with them, both he and Ms Mackle agreed that her company, Nexus Net Ltd, was actually his employer. The intituling has been amended accordingly.

There is no dispute that wages and holiday pay are owed in the amounts claimed by Mr Clephane. Ms Mackle told me that problems with payment arose because of cash flow difficulties and the company has now initiated a voluntary liquidation process. I have checked the Companies Office Website and it would appear that the company has not yet been wound up. On that basis I proceed to determine the matter.

Mr Clephane is owed wages for the final three weeks of his employment, being the weeks ending 30 January, 6 February and 13 February 2005. The amount owed under this head is \$1,868.75 gross. He is also owed holiday pay at 6% of his total gross earnings. The amount owed under this head is \$407.10 gross.

The respondent is therefore ordered to pay to the applicant outstanding wages and holiday pay of \$2,275.85 gross.

Mr Clephane did not claim costs but has subsequently asked whether he will get his \$70.00 filing fee back. I make no order for costs but note that if this had been claimed in the proper fashion, an order for costs would have been likely.

Y S Oldfield
Member of Employment Relations Authority