

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

[2016 ] NZERA Wellington 139  
5579388

BETWEEN            COREY DEW  
                                 Applicant  
  
AND                    MANGAMINGI TRANSPORT,  
                                 MILLING & CONTRACTING  
                                 LIMITED  
                                 Respondent

Member of Authority:     Michele Ryan  
  
Representatives:            No appearance by or on behalf of the Applicant  
   Joe Menzies for the Respondent  
  
Investigation Meeting:     22 November 2016 at New Plymouth  
  
Oral Determination:        22 November 2016  
  
Written Determination     24 November 2016

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**ORAL DETERMINATION**

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[1]     This determination is a written record of an oral determination delivered on 22 November 2016.

**Background**

[2]     The applicant Mr Corey Dew resigned from his employment on or about 31 July 2015.

[3]     At Mr Dew’s request mediation between the parties was scheduled for 7 October 2015. Unfortunately Mr Dew he did not attend the event.

[4]     The Authority received Mr Dew’s Statement of Problem on 4 February 2016. He asked the Authority to resolve “*wages been (sic) unlawfully taken*”. He referred to

deductions made in relation to KiwiSaver, and to holiday pay and wet gear allowance. No further detail was provided.

[5] The parties were directed to return to mediation scheduled for 21 March 2016 but Mr Dew did not attend that appointment either.

[6] On 13 June 2016 Mr Dew wrote to the Authority. He apologised for his failure to attend either of the scheduled mediations. He indicated he wished to pursue his application.

[7] A case management call with the parties was held on 1 August 2016. The respondent was resistant to scheduling further mediation and an investigation meeting date was discussed and agreed. Mr Dew was advised his claims were unclear and was asked to provide further detail in a written statement which he agreed to provide to the Authority. The following day, by courier, a Minute (recording the arrangements) and an attached Notice of Investigation Meeting was sent to each of the parties.<sup>1</sup> The Notice of Investigation form amongst other things that;

*If the Applicant does not attend the investigation meeting, the matter may be dismissed and costs may be awarded against the Applicant.*

[8] The support officer spoke to Mr Dew's on two separate occasions between the case management call and the date scheduled for the investigation meeting including on 19 September 2016 where he was contacted by phone and asked to provide documentation which was overdue according to the agreed timetable. A ten day extension to provide documentation was granted but no further material was furnished.

### **The investigation and determination**

[9] Mr Joe Menzies for the respondent attended the investigation meeting at the appointed date and time of 22 November 2016 at 9.30am. Mr Dew was not present.

[10] At 9.45 am I requested the support officer to seek to make contact with Mr Dew. A voice message was left on his voicemail which asked that he either call the Authority immediately or attend the investigation meeting which would proceed at 10am.

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<sup>1</sup> On 16 August 2016 Courier Post confirmed Mr Dew had received the documentation on 4 August 2016.

[11] Mr Dew did not contact the Authority as requested nor did he attend the investigation meeting.

[12] In view of the events leading to the date of the investigation meeting I am satisfied that Mr Dew knew of the date of the investigation meeting.

[13] Mr Dew has been given considerable latitude by the Authority to progress his claim. His ongoing failure to comply with any of the Authority's directions such as; to attend mediation, provide information, or be present at the Authority's investigation, has caused significant inconvenience for the respondent. The respondent denies that it has made any unlawful deductions from Mr Dew's wages and remains perplexed by his claims.

[14] Given all the reasons set out above I am dismissing his application.

[15] No order is sought by the Respondent as to costs.

Michele Ryan  
Member of the Employment Relations Authority