

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 250/08
5116716

BETWEEN JULIE DIXON T/A
RAGAMUFFINS (2)
Applicant

AND GEMMA HIRST
Respondent

Member of Authority: Dzintra King
Representatives: Applicant In Person
Respondent In Person
Investigation Meeting: 14 July 2008
Determination: 15 July 2008

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The applicant, Julie Dixon trading as Ragamuffins (2), says that she entered into an agreement with the respondent, Ms Gemma Hirst, that Ms Hirst, while training, was to be paid part of her annual leave in advance. Ms Dixon would pay for the other half of the training.

[2] Ms Dixon said that at the time of her resignation Ms Hirst owed her employer annual leave taken in advance. Ms Dixon says that Ms Hirst owes \$532.77.

[3] Ms Hirst denies that any agreement for her to take annual leave in advance was reached and that she does not owe any money.

[4] Ms Hirst said she did not recall a conversation during which the agreement that she would take annual leave in advance and the employer would pay for the other half of the training was made.

[5] Ms Dixon said the arrangement regarding annual leave and training was one she had made with other staff so that her employees continued to have an income while training.

[6] On the balance of probabilities I find it more likely than not that Ms Hirst did agree to take annual leave in advance. Supporting this is the evidence that the same arrangements had been with other staff. Ms Hirst was vague about the issue and also maintained that she had been denied access to the wages book. She said it was locked up and she had not seen it. When the wages book was produced it showed that until the time she went on her course Ms Hirst regularly signed the wages book.

[7] Having found that an agreement to take annual leave in advance was reached, the corollary is that Ms Hirst should repay the money. Ms Hirst is to pay the applicant the sum of \$532.77.

[8] Ms Hirst is also to pay to the applicant the \$70 filing fee.

Dzintra King

Member of the Employment Relations Authority