



# New Zealand Employment Relations Authority Decisions

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## Dunnett v Gardening Aids Limited AA378/10 (Auckland) [2010] NZERA 686 (23 August 2010)

Last Updated: 10 November 2010

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

AA 378/10 5117895

BETWEEN PETER DUNNETT

Applicant

AND GARDENING AIDS LIMITED

Respondent

Member of Authority: Dzintra King

Representatives: Clive Bennett, Counsel for Applicant

Tom Skinner, Advocate for Respondent

Determination: 23 August 2010

### DETERMINATION OF THE AUTHORITY

#### Employment Relationship Problem

[1] When the substantive matter was determined it was left to the parties to resolve the issue of what payments were owed to the applicant and leave was reserved to return to the Authority if necessary. The parties have been unable to agree.

[2] As I indicated in the substantive determination, the documentation regarding payments and wages and debt was confused and mixed private debt with monies owed by the respondent not only to the applicant but also to his wife.

[3] The parties agree that Mr Dunnett is owed \$1,386.24 nett holiday pay.

[4] Mr Dunnett is owed \$1,000 gross for a week's pay in lieu and \$1,000 gross for the week ending 4 December 2007.

[5] The respondent made Mr Dunnett a payment of \$3,000 which is said to be an advance on wages and a payment post resignation of \$563.50. The respondent seeks to have these monies plus a \$1,000 payment said to be an advance on wages to Mrs Dunnett (who is not a party to these proceedings) deducted from the payments owing to Mr Dunnett.

[6] In the substantive determination I found that a right to set off from wages had been uniformly found to be unsuccessful because of the provisions of the [Wages Protection Act 1964](#). Mr Dunnett had not given his consent to deductions.

[7] The respondent is to pay Mr Dunnett the sum of \$1,386.24 nett in holiday pay and \$2,000 gross in unpaid wages and payment in lieu of notice.

Dzintra King

Member of the Employment Relations Authority

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