

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

[2019] NZERA 625
3072592

BETWEEN ABHINAV SINGH DUTT
Applicant
AND BLADE GROUP LIMITED
Respondent

Member of Authority: Anna Fitzgibbon
Representatives: Applicant in person
No appearance for the Respondent
Investigation Meeting: 31 October 2019
Oral Determination: 31 October 2019
Written Record Issued: 1 November 2019

RECORD OF ORAL DETERMINATION OF THE AUTHORITY

- A. The respondent, Blade Group Limited (Blade) owes the applicant Mr Abhinav Singh Dutt wages in the sum of \$3,888 gross together with petrol costs of \$70.80. Blade is to pay these sums to Mr Dutt within 21 days of the date of this determination.**
- B. Blade is to pay Mr Dutt the filing fee of \$71.56 within 21 days of the date of this determination.**

Employment Relationship Problem

[1] The applicant Mr Abhinav Singh Dutt says he is owed wages by the respondent, Blade Group Limited (Blade) for work performed by him in June 2019. Mr Dutt says he was promised wages would be paid to him for work performed but he has never received the wages.

Non-Appealance by the Respondent

[2] Mr Rupert Magele is the sole director and shareholder of Blade. A statement of problem was filed in the Employment Relations Authority (the Authority) by Mr Dutt on 10 September 2019. The statement of problem was served by courier at the registered office of Blade and signed for, on 16 September 2019. There was no response by Blade and no statement in reply filed.

[3] On 4 October 2019 a reminder letter was sent by the Authority to Blade that it was to file a statement in reply. A further copy of the statement of problem was attached to the reminder letter. The reminder letter of 4 October 2019 was served by courier on the registered office of Blade on 9 October 2019.

[4] Further correspondence was sent to Blade by the Authority in relation to its investigation but there has been no response by Blade. On 14 October 2019, a notice of investigation meeting to be held on 31 October 2019 at the Auckland office of the Authority was served at Blade's registered office. There was no reply and there was no appearance by or on behalf of Blade at the investigation meeting on 31 October 2019.

[5] I am satisfied that Blade was aware of the investigation meeting to be held on 31 October 2019 and that it had received notice of the investigation meeting. Therefore, I proceeded with the investigation meeting.

The Investigation Meeting

[6] Mr Dutt gave evidence and affirmed his evidence as true and correct. This determination states findings of fact and law and makes conclusions on issues necessary to dispose of the matter.

Relevant Facts

[7] From May to November 2018, Mr Dutt worked as a patrol guard for S.E.A.L. Security Limited (Seal). Seal had a contract with Global Security Solutions Limited (Global) to provide security services to Global's clients. When Seal lost its contract with Global, Mr Dutt obtained employment with Global as a patrol guard. This was in December 2018. During his employment by Global, Global decided to give its patrol work to contractors. This meant Mr Dutt undertook static guard work. While undertaking static guard work at the Giltrap Motors site in Wairau Road, North Shore he met a Blade employee. Global had a contract with Blade

to provide security guard services. The Blade employee suggested that Mr Dutt consider working for Blade so that he could return to patrol work and not continue working as a static guard.

Employment by Blade

[8] In May 2019, Mr Dutt had a car accident. As a result of the car accident Mr Dutt was pursued by an insurance company. Mr Dutt needed to obtain more hours of work so that he could pay back the debt. Mr Dutt asked the Blade employee if there was work at Blade. A number of texts between the Blade employee and Mr Dutt were provided to the Authority and confirmed that there were discussions about Mr Dutt obtaining employment as a guard for Blade.

[9] On 21 May 2019, the Blade employee texted Mr Dutt the number of Mr Rupert Magele, the director of Blade. This was to enable Mr Dutt to contact Mr Magele directly about a position at Blade.

[10] Mr Dutt did text Mr Magele but did not receive a reply. On 31 May 2019, the Blade employee (who had discussed a position at Blade with Mr Dutt) had taken on some managerial work for Blade. He asked Mr Dutt to do a patrol run for Blade as a trial to see whether he was suitable for the position.

[11] From the evidence, Mr Dutt says he spoke with the Blade employee about the hours of work he would like to work and his expected pay rate. The Blade employee and Mr Dutt agreed on \$18 gross an hour. The text messages provided to the Authority show that Mr Dutt provided the Blade employee with his bank account number in to which wages would be paid. He also provided his IRD number. This information was provided to the Blade employee on 15 June 2019. Mr Dutt began to be rostered to work for Blade and began receiving work doing patrol runs for Blade. Mr Dutt believed he was employed by Blade. I accept that he was.

[12] On 21 June 2019, Mr Dutt received a payment from Blade into his bank account totalling \$1,100.80 for eighty-four hours of work performed by him for Blade. Mr Dutt disputed the amount that he had been paid because it was less than \$18 an hour which he thought had been agreed. Mr Dutt spoke with the Blade employee who said that Mr Magde thought that he was being paid the minimum wage and that's why he was paid the amount that

he was paid. Mr Dutt was also upset that he had not been reimbursed for petrol that he had been asked to pay for while performing work for Blade.

Blade loses Global contract

[13] On 28 June 2019, Mr Dutt was informed by the Blade employee that Blade had lost its contract with Global. Mr Dutt was told that from 1 July 2109, another security company by the name of Hawkeye had been contracted by Global to undertake security services for Global's clients.

[14] The Authority has seen the various texts. between the Blade employee and Mr Dutt about his employment. Mr Dutt sent various texts in early July to Mr Magele seeking payment of wages, which were not responded to.

[15] There was a text from Mr Dutt to Mr Magele on 8 July 2019 at 10:49 a.m. informing him of his problems with the insurance company and asking for payment for work performed. On 8 July at 1:44 p.m. Mr Magele responded as follows:

Yeah totally understand your situation. I will update you later today with what is happening with your pay. Sorting some of the other parts that the other patrolman Pew before we pay out everyone. Do you know who drove the 115 car when it ran out of fuel?

[16] The wages were still not paid, and Mr Dutt sent a further text to Mr Magele on 14 July 2019 at 4:42 pm. seeking payment. On 15 July 2019, at 3:48 p.m. Mr Magele responded as follows:

Afternoon, working at getting all the hours paid out this week. Will keep you updated throughout this week. Apologies for the wait we will have it all paid out as soon as possible.

[17] The wages were still not paid. Mr Dutt sent a further text on 23 July 2019 at 12:46 p.m. to Mr Magele saying that he needed to be paid and that he was going to make a complaint to the ERA. Mr Magele responded almost immediately stating that most of the hours would be paid as soon as he got confirmation from Global that they would be paying Blade. He went on to say: "We are waiting for them to clear what they owe us so we can pay everyone else. Like you guys our whole team hasn't be paid in weeks."

[18] Following receipt of the text, Mr Dutt made inquiries of a person that he knew at Global in relation to the payments between Blade and Global. On 12 August 2019, he received a text from his contact at Global informing him that Global had paid Blade for the hours worked and that it had paid for all patrols and that there was “no further patrols money coming as their final wash up was paid on 2 August.” Mr Dutt was concerned by this and accordingly brought a statement of problem in the Employment Relations Authority. From the evidence available to me, which is uncontested, I find that Mr Dutt was employed by Blade from 3 June to 30 June 2019 and that he is owed wages for 216 hours of work performed by him. At the rate of \$18 gross an hour this amounts to \$3,888 gross.

Orders

[19] I order Blade to pay Mr Dutt the sum of \$3,888 gross within 21 days of the date of this determination. Blade is also ordered to reimburse Mr Dutt the sum of \$70.80 for petrol costs incurred by him. This is to be paid within 21 days of the date of this determination. Blade is also to pay Mr Dutt the filing fee of \$71.56 within 21 days of the date of this determination.

Anna Fitzgibbon
Member of the Employment Relations Authority