

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Lioubov Erchova (Applicant)  
**AND** Storewatch Response Group Limited (Respondent)  
**REPRESENTATIVES** Applicant in Person  
No appearance by Respondent  
**MEMBER OF AUTHORITY** Dzintra King  
**INVESTIGATION MEETING** 3 May 2005  
**DATE OF DETERMINATION** 3 May 2005

**DETERMINATION OF THE AUTHORITY**

The applicant, Ms Lioubov Erchova, says that the respondent, Storewatch Response Group, owes her unpaid wages and holiday pay; and that she was unjustifiably dismissed. The respondent has not filed a Statement in Reply and did not appear at the hearing.

Ms Erchova was not given an employment contract prior to her employment commencing. She told me her employer expected her to work hours above those that had been verbally agreed and also altered her duties. She was asked to sign a letter saying the job did not suit her and she could leave without notice. Ms Erchova said she was shocked and signed the letter. I accept her unchallenged evidence that the resignation was forced on her. It was a constructive dismissal and it was unjustified. Ms Erchova is entitled to compensation pursuant to s. 123 (c) (i), I set that at \$3,000.

Ms Erchova was employed on a salary of \$37,000 per annum. She commenced employment on 18 October 2004 and was dismissed on 31 December 2004. She has not been paid for the period 10 to 31 December, a period of three weeks. The wages owing for that period are \$2134.62. Total earnings during the period of employment were \$7826.92. Holiday pay calculated at 6% comes to \$469.61. The respondent is to pay the sum of \$2,604.23 to the applicant. Interest on this amount calculated at the rate of 7% is also to be paid. The interest commences from the date of dismissal – 31 December 2004 – and runs until such time as the payment is made in full.

Ms Erchova sought other employment after her dismissal and was employed on 14 February 2005 at a lower salary of \$33,500. Ms Erchova is entitled to three months' reimbursement of lost salary from the date of dismissal. That comes to \$9,250. The earnings from 14 February must be deducted from that. Those earnings total \$4,380.76. That leaves a total of \$4,869.23 owing. Subject to s.128 (3) there is discretion to order the payment of reimbursement over the three month period. I see no reason not to exercise my discretion on the circumstances of this case. Ms Erchova is entitled to an additional payment of the difference between her old and new salary for the period 31 March to 3 April 2005. That totals \$319.62.

Ms Erchova is to be paid:

1. Wages of \$2,134.62
2. Holiday pay of \$469.61
3. Interest at 7% on the above amounts
4. Three months' reimbursement of \$4,869.23
5. Discretionary reimbursement of \$319.62
6. \$3,000 compensation

Costs

Ms Erchova will supply a statement indicating the costs incurred. The respondent will be given 14 days from the date of receipt of the costs memorandum to comment on the costs sought.

Dzintra King  
Member of Employment Relations Authority