

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2014] NZERA Auckland 354  
5468528

BETWEEN

EMMA LOUISE EYTON  
Applicant

A N D

AMPHIBIANS SWIMMING  
ACADEMY LIMITED  
Respondent

Member of Authority: Rachel Larmer  
Representatives: Applicant in person  
No appearance for Respondent  
Investigation Meeting: 20 August 2014 at Auckland  
Date of Determination: 20 August 2014

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**DETERMINATION OF THE AUTHORITY**

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- A. Within 28 days of the date of this determination Amphibians Swimming Academy Limited (Amphibians) is ordered to pay Ms Eyton:**
- a. \$1,541.78 wage arrears;**
  - b. \$71.56 filing fee.**

**No Statement in Reply**

[1] Amphibians was served at its registered address for service with Ms Eyton's Statement of Problem on 29 July 2014. It has not filed a Statement of Reply. It did not seek leave to file a Statement in Reply out of time.

### **No appearance**

[2] Amphibians was served at its registered address for service with the Authority's Notice of Hearing on 29 July 2014 but it did not appear at the investigation meeting today. It has not contacted the Authority.

### **Failure to comply with directions**

[3] Amphibians has failed to comply with the Authority's direction to provide a copy of Ms Eyton's wage and time and holiday and leave records.

### **Employment relationship problem**

[4] Ms Eyton started work as a Swimming Instructor/Administrator with Amphibians on 04 May 2013. She was paid \$18.25 per hour and was supposed to be paid weekly but that often did not occur. Her employment ended on 13 July 2013.

[5] Ms Eyton claims she is owed \$1,541.78 consisting of wage arrears and unpaid holiday pay.

[6] When her employment ended Ms Eyton was owed a total of \$3,783.23 consisting of unpaid wages of \$3,540.52 and holiday pay of \$242.71.

[7] Amphibians' sole Director Ms Diane Terry (nee Willis) agreed in a letter dated 17 August 2013 to pay Ms Eyton her unpaid wages and holiday pay by way of three equal instalments of \$375 to be paid from 26 August to 30 September 2013. That did not occur.

[8] Since her employment ended Ms Eyton has been paid \$2,241.45 leaving a balance owing of \$1,541.78.

[9] On 17 January 2014 Ms Terry (nee Wilis) emailed Ms Eyton to say she would pay her \$150 per week from the following week until "*a more worthy figure could be achieved*". That did not occur.

[10] I accept Ms Eyton's uncontested evidence. Amphibians is ordered within 28 days of the date of this determination to pay Ms Eyton:

- a. \$1,541.78 wage and holiday pay arrears;

b. \$71.56 to reimburse her filing fee.

### **Costs**

[11] Ms Eyton was not legally represented so there is no issue as to costs.

**Rachel Larmer**  
**Member of the Employment Relations Authority**