

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 53/10
5287296

BETWEEN

TIMOTHY FLACK
Applicant

AND

PM ELECTRICAL SERVICES
LIMITED
Respondent

Member of Authority: R A Monaghan

Representatives: T Flack in person
No appearance for respondent

Investigation meeting: 8 February 2010

Determination: 9 February 2010

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Timothy Flack says his former employer, PM Electrical Services Limited (PMES) owes him unpaid wages and holiday pay.

Preliminary matter

[2] PMES has not filed a statement in reply, and did not attend the investigation meeting.

[3] The statement of problem was served on the company at its registered office, and a member of the Authority's support staff was in contact with one of the director/shareholders regarding the filing of a statement in reply. I am satisfied the company has notice of the claim against it.

[4] The notice of investigation meeting was served on the company at its registered office and at my direction on the director/shareholders at their registered address. I am satisfied the company had notice of the date of the meeting.

[5] Since PMES did not attend and was not represented at the meeting, and has not shown good cause for its failure to attend or be represented, I have proceeded to hear and determine this matter under Clause 12, Schedule 2 of the Employment Relations Act 2000.

Background

[6] PMES employed Mr Flack as an electrician, commencing 28 September 2009. The agreed rate of pay was \$25 per hour. The hours of work were 8 hours per day from Monday to Friday inclusive, with call outs as required.

[7] Mr Flack was paid weekly in arrears. He received payments of the wages owed to him on 6, 14 and 21 October.

[8] On 1 November 2009 Mr Flack's employment was terminated summarily after he expressed concern about the failure to make a payment due on or about 28 October. That payment was received on 2 November, and covered the week of Monday 19 October – Friday 23 October.

[9] However further payment was owed for work done in the week of Monday 26 October to Friday 30 October. No payment has been made. Mr Flack seeks payment calculated as:

$$40 \times \$25 = \$1,000$$

[10] Holiday pay due on the termination of employment was not paid. Mr Flack seeks payment calculated as:

$$8\% \times \$5,531.25 = \$442.50$$

[11] I am satisfied these amounts are owed and payment is ordered accordingly.

[12] There will be a further order for the payment of interest on these amounts, calculated at the rate of 4.8% per annum from 1 November 2009 to the date of payment.

Summary of orders

[13] PMES is ordered to pay to Mr Flack:

- a. \$1,000 (gross) as unpaid wages;
- b. \$442.50 (gross) as unpaid holiday pay; and
- c. Interest on these amounts calculated at the rate of 4.8% per annum from 1 November 2009 to the date of payment.

Costs

[14] In addition to the above orders, PMES is ordered to reimburse Mr Flack for the Authority's filing fee of \$70.

R A Monaghan

Member of the Employment Relations Authority