

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2019] NZERA 641
3068552

BETWEEN MICHAEL TERENCE GOWING
Applicant

AND CONNECTEDFUTURE
LIMITED
Respondent

Member of Authority: Anna Fitzgibbon

Representatives: Applicant in person
No appearance for the Respondent

Investigation Meeting: 7 November 2019 at Whangarei

Date of Oral
Determination: 7 November 2019

Written Record of Oral
Determination: 8 November 2019

ORAL DETERMINATION OF THE AUTHORITY

- A. The Respondent, ConnectedFuture Limited (ConnectedFuture) owes the Applicant, Mr Michael Terence Gowing outstanding holiday pay in the sum of \$13,682 gross.**
- B. ConnectedFuture owes Mr Gowing the sum of \$1,521nett, being the amount of a medical expenses claim declined by Southern Cross Health Care Limited (Southern Cross) because ConnectedFuture had failed to pay Mr Gowing's Southern Cross premiums in accordance with his employment agreement.**

- C. The above sums in A and B above are to be paid by ConnectedFuture to Mr Gowing within 21 days of the date of this determination together with interest on the sums at the rate of 5 % per annum from 1 May 2019 until payment.**
- D. ConnectedFuture is to pay Mr Gowing the filing fee of \$71.56.**

Employment Relationship Problem

[1] Mr Gowing says he is owed outstanding holiday pay due to him when his employment with ConnectedFuture ended on 30 April 2019. Mr Gowing also says that ConnectedFuture cancelled his Southern Cross healthcare policy without his knowledge. This resulted in a medical claim in the sum of \$1521 nett, being declined.

Non-Appearance of the Respondent

[2] Mr Andrew Ahern is the sole director and majority shareholder of ConnectedFuture. A statement of problem was filed in the Employment Relations Authority (the Authority) by Mr Gowing on 30 July 2019. The statement of problem was served by courier at the registered office of ConnectedFuture and signed for on 8 August 2019. There was no response by ConnectedFuture or Mr Ahern and no statement in reply was filed.

[3] On 20 August 2019, a reminder letter was sent by the Authority to ConnectedFuture that it was to file a statement in reply. The reminder letter was served on the registered office of ConnectedFuture on 22 August 2019. A further reminder letter was sent to ConnectedFuture by the Authority on 27 August enclosing another copy of the statement of problem and a notice of investigation meeting. On 30 October 2019, a further notice of investigation meeting was served on ConnectedFuture.

[4] ConnectedFuture has failed to engage with the Authority and it is to be noted that Mr Ahern failed to engage with mediation services when Mr Gowing attempted to have his matter resolved by way of mediation. There has been no appearance by or on behalf of ConnectedFuture today. I am satisfied that ConnectedFuture was aware of the investigation meeting to be held today and that it received notice of the investigation meeting and other correspondence from the Authority. Therefore, I proceeded with the investigation meeting.

Relevant Facts

[5] ConnectedFuture is a computer services company. Mr Andrew Ahern is the director and major shareholder of the company.

[6] Mr Gowing was employed by ConnectedFuture as a business solutions consultant from 15 October 2016 until his employment ended on 30 April 2019. Mr Gowing had a draft written employment agreement which entitled him to 28 days annual leave per annum. It also provided that ConnectedFuture would provide him with Southern Cross Healthcare insurance up to a maximum value of \$5,300. Even though this agreement was not signed by the parties, the parties acted in accordance with the terms of the employment agreement.

[7] On 30 April 2019, Mr Gowing's employment came to an end as ConnectedFuture's contract with Spark to provide computer services to it, ended. Mr Gowing secured employment with Spark. At the date of termination ConnectedFuture owed by Mr Gowing holiday pay totalling \$13,682 gross. This was not disputed by Mr Ahern who signed an agreement with Mr Gowing on 14 May 2019 agreeing that ConnectedFuture owed that amount in holiday pay to him. The calculations were set out in the agreement and the agreement was signed in the presence of another colleague.

Attempts to Secure Payment

[8] Mr Gowing has attempted to make contact with Mr Ahern on numerous occasions in order to be paid holiday pay due. The Authority has seen emails from Mr Gowing to Mr Ahern. However, the outstanding holiday pay has not been paid to Mr Gowing as agreed.

Order

[9] Within 21 days of the date of this determination, I order ConnectedFuture to pay Mr Gowing the sum of \$13,682 gross in outstanding holiday pay together with interest at the rate of 5% per annum from 1 May 2019 until payment.

Southern Cross Health Care

[10] Mr Gowing was entitled under his employment agreement with ConnectedFuture to Southern Cross health care. In or around mid-February 2019, Mr Gowing had cause to make a claim under his policy with Southern Cross. The amount of the claim for medical services provided amounted to \$1,521. This sum was not paid by Southern Cross and following

enquiries by Mr Gowing he was informed that ConnectedFuture had cancelled the policy without his knowledge. This is a benefit which was owing to Mr Gowing under his employment agreement and without evidence to the contrary I find that ConnectedFuture owes Mr Gowing the amount of \$1,521.

[11] Within 21 days of the date of this determination, I order ConnectedFuture to pay Mr Gowing the sum of \$1,521 together with interest at the rate of 5% per annum from 15 February 2019 until payment.

Costs

[12] ConnectedFuture is to pay Mr Gowing the filing fee of \$71.56 within 21 days of the date of this determination

Anna Fitzgibbon
Member of the Employment Relations Authority