

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

WA 95A/08  
5085465

BETWEEN                      VERRYN HEAP  
   Applicant

AND                              CALIBRE PLASTICS  
   LIMITED  
   Respondent

Member of Authority:        Robin Arthur

Representatives:            Barbara Buckett, Counsel for Applicant  
   David Flaws, Advocate for Respondent

Determination:                11 August 2008

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**SUPPLEMENTARY DETERMINATION OF THE AUTHORITY**

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[1] This determination provides for recall of the substantive determination in this matter, Authority determination WA95/08 (14 July 2008), in order to correct an arithmetical slip or error in the calculation of the Applicant's entitlement to redundancy compensation under her former employment agreement with the Respondent.

[2] The error was identified after Applicant counsel lodged a memorandum dated 28 July 2008 suggesting the Applicant remained entitled to four weeks' salary as compensation for redundancy rather than three weeks' salary as stated in determination WA95/08.

[3] A Minute of the Authority addressed to the parties' representatives on 28 July 2008 noted that there appeared to be an error or slip in the calculation made and that the correct total of outstanding redundancy compensation entitlement was two-and-a-half weeks salary. The Minute explained that this calculation was based on the application of the two relevant clauses of the Applicants' former employment agreement to her length of service with the Respondent. The parties were given an opportunity to lodge submissions on the matter should they wish to do so before any supplementary determination correcting the error was made and issued. Neither party

lodged any submissions within the time provided but the Respondent's representative advised the Authority Support Officer that the Respondent was content for the Authority to determine the matter.

## Determination

[4] Recall of a determination is appropriate where an error or slip appears on the face of the Authority's determination to have been made in calculating an entitlement under an employment agreement and resulting in the determination not correctly stating what the Authority intended: *Trotter v Telecom Corporation of New Zealand Limited* [1993] 2 ERNZ 935, 941. It is a "very special reason" required by justice that an award of remedies be correctly calculated: *Horowhenua County v Nash (No 2)* [1968] NZLR 632, 633.

[5] In the present case the Applicant's service spanned a period of two years and two days from 2 May 2005 to 4 May 2007. Clause 12.9(b)(ii) required compensation of four weeks salary for the first year of service and one week's salary for every additional year of service, giving a total of five weeks salary due as redundancy compensation to the Applicant. However clause 12.7(a) also provided that the provisions of clause 12.9(b) were to "*be reduced by one half*" in the event of an agency held by the Respondent business coming "*to an end for whatever reason*". The redundancy of the Applicant's position followed the end of that agency and the reduction of entitlement consequently applied.

[6] Authority determination WA95/08 did not correctly make that calculation. It is recalled for the purpose of making the following necessary corrections:

- (i) The typographical error in reproduction of clause 12.7 (a) of the Applicant's terms of employment is corrected to refer to "*the provisions of 12.9(b)*" not 19.9.
- (ii) Paragraph 60 is amended to read (with the change underlined):

*"The Applicant's terms of employment also entitled her to a redundancy compensation payment of two-and-a-half weeks salary. This has not been paid because she refused to accept four weeks pay offered to her as compensation. The Respondent remains liable to pay her the two-and-a-half weeks of her entitlement."*

- (iii) Paragraph 76 is amended to read (with the change underlined):

*“The Respondent is to pay to the Applicant the following remedies in settlement of her personal grievance:*

- (i) \$6000 in compensation under s123(1)(c)(i) of the Act;*
- (ii) Two-and-a-half weeks’ wages as redundancy compensation under clause 12.9 and 12.7 of her terms of employment;*
- (iii) One day’s holiday pay.”*

[7] Costs were reserved in determination WA 95/08. Should it remain necessary for the Authority to determine that matter, the timetable set in that determination applies from the date of this supplementary determination.

Robin Arthur  
Member of the Employment Relations Authority