

BETWEEN                      SAYED HASHMY  
   Applicants

AND                              HYGIENE FOUNDATION  
   LIMITED  
   Respondent

Member of Authority:        Eleanor Robinson  
  
Representatives:              Applicant in Person  
   No appearance for Respondent  
  
Investigation Meeting:        27 August 2013 at Auckland  
  
Determination:                27 August 2013

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1]     The Applicant, Mr Sayed Hashmy, claims that he is owed unpaid wages and other monies by the Respondent, Hygiene Foundation Limited (HFL).

[2]     Mr Hashmy was employed by HFL as a Customer Service Manager from 1 May 2013 until 30 June 2013 in accordance with an individual employment agreement (The Employment Agreement) which on an attached Schedule itemised his salary as \$55,000.00 gross per annum.

[3]     Mr Hashmy said he had not received any payments by way of remuneration since he commenced employment with HFL. In mid-June 2013 Mr Hashmy said he had been advised by HFL that he would no longer have employment following 30 June 2013.

[4]     Mr Hashmy claims that he is owed:

- Unpaid wages for the period 1 May 2013 to 30 June 2013
- Unpaid statutory holiday pay for the period 1 May 2013 to 30 June 2013
- Unpaid one month notice period in accordance with clause 13.2 of the Employment Agreement.

## **Issues**

[5] The issues for determination are whether Mr Hashmy is owed unpaid wages and other monies by HFL.

### **Failure of Respondent to attend or be represented**

[6] HFL did not attend, and was not represented, at the Investigation Meeting despite having been served with the Notice of Investigation Meeting. The Authority received an email from Mr Lance Ryan, Partner of HFL, on 27 August 2013 in which Mr Ryan acknowledged that the Applicant was owed wages by HFL.

[7] For the reasons set out above I am satisfied that HFL had notice of the application and the date of the Investigation Meeting and that it chose not to attend or to be represented.

[8] I have therefore proceeded pursuant to clause 12 Schedule 2 of the Employment Relations Act 2000 to act as fully as if HFL had attended or been represented.

## **Determination**

### *Statutory entitlement to wages*

[9] The Wages Protection Act 1983 governs the payment of wages between an employer and an employee. In accordance with s 4: *an employer shall, when any wages become payable to a worker, pay the entire amount of those wages to that worker without deduction.*

[10] Mr Hashmy's claims were supported by documentation substantiating the dates for which he were claiming non-payment and he gave evidence on oath which supported the documentary material filed with the Authority.

[11] I find that Mr Hashmy is entitled to payment of wages for the hours which he has worked, in addition to unpaid statutory holiday entitlement, and the unpaid notice period as set out below.

## **Remedies**

### *Wage claim*

[12] HFL is ordered to pay Mr Hashmy the sum of **\$9,167.00 gross** in respect of unpaid wages for the period 1 May 2013 to 30 June 2013.

***Holiday pay and other monies owing:***

[13] HFL is ordered to pay Mr Hashmy the sum of:

- \$733.40 gross in respect of unpaid statutory holiday pay for the period 1 May 2013 to 30 June 2013
- \$4,583.33 gross in respect of the unpaid one month notice period pursuant to clause 13.2 of the Employment Agreement.

***Interest***

[14] Mr Hashmy has applied for interest on the outstanding sums owed to him.

[15] The Authority has the power to award interest pursuant to clause 11 of the Second Schedule of the Act at the rate prescribed by the Judicature Act 1908, which is currently 5% per annum<sup>1</sup>.

[16] I consider that it is appropriate that HFL is ordered to pay interest on the outstanding sums owed to Mr Hashmy.

[17] HFL is to pay interest of 5% on the outstanding sums due to Mr Hashmy from the date of determination until the amounts owed are paid in full.

[18] Mr Hashmy is to be reimbursed the filing fee of \$71.56 by HFL.

**Costs**

[19] While costs are reserved, I note here that, subject to his submissions, Mr Hashmy was not legally represented and, unless he incurred legal costs, it is therefore unlikely he has grounds to claim a contribution to any fair and reasonable costs.

**Eleanor Robinson**  
**Member of the Employment Relations Authority**

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<sup>1</sup> Judicature (Prescribed Rate of Interest) Order 2011 (SR2011/177)