

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** David Arnold Hyde (Applicant)  
**AND** Tweed Trading Limited (Respondent)  
**REPRESENTATIVES** David Arnold Hyde In person  
Malcolm Tweed, Manager, Advocate for Respondent  
**MEMBER OF AUTHORITY** Dzintra King  
**INVESTIGATION MEETING** 11 April 2005  
**DATE OF DETERMINATION** 19 April 2005

**DETERMINATION OF THE AUTHORITY**

The applicant, Mr. David Hyde, maintains that the respondent, Tweed Trading Ltd, terminated his employment unjustifiably and that he is owed wages.

It is unfortunate that Mr. Tweed twice chose to ignore a direction to mediation. He may well have achieved a result he found more satisfactory had gone to mediation as directed.

On 4 November 2004 Mr. Hyde and another employee had a dispute with Mr. Tweed. Both employees subsequently left the employer's premises. Mr. Tweed said Mr. Hyde told him he was sick of working for him and was leaving. Mr. Hyde said he told Mr. Tweed he wanted his holiday pay and he would then consider leaving. Mr. Hyde seemed unaware that the only circumstances in which holiday pay could be paid out were on termination of employment.

On the evening of 4 November Mr. Tweed went to Mr. Hyde's home and repossessed the company vehicle. Mr. Hyde said he asked if could work on the Friday. Mr. Tweed told him he could not. On the Friday Mr. Hyde and the other employee went to the workplace and told one of the staff that they would not be in that day. This was not conveyed to Mr. Tweed.

On the Monday Mr. Hyde went to work and was asked by Mr. Tweed why he was there as he did not work there any more. It appears the other employee had apologized to Mr. Tweed for his behaviour on the Thursday and had been re-employed.

Mr. Hyde was not dismissed. He told Mr. Tweed he did not work for him any more and asked for his holiday pay. He may subsequently have regretted that decision but that is another matter.

Subsequently Mr. Tweed attempted to locate Mr. Hyde in order to pay him his outstanding holiday pay as the employees were not paid by direct credit. This proved difficult. However, eventually cheques were delivered to and cashed by Mr. Hyde.

The outstanding issue in relation to wages is payment for time Mr Hyde worked on Saturdays. It is agreed that Mr. Hyde did work Saturdays and that money is owed. Mr. Hyde worked 81 hours. Ten of those hours were incorporated in My Hyde's final pay and the employer has subsequently paid him for another 40 hours. Mr. Hyde is therefore owed payment for 31 hours. At \$10 per hour that amounts to \$310. Mr. Tweed wanted to offset this either in whole or part against what he said was Mr. Hyde's excessive private use of the work vehicle. There was no written contract of employment as is legally required and it was not argued that there had ever been any such agreement between the parties. That is one of the reasons I indicated earlier that a mediated settlement might have better achieved Mr. Tweed's wishes.

### **Decision**

1. Mr. Hyde was not unjustifiably dismissed.
2. Mr. Tweed is to pay Mr. Hyde the sum of \$310.00.

### **Costs**

If Mr. Hyde wishes to claim costs he should write to the Authority within 28 days of the date of this decision setting out his claim. Mr. Tweed should then rely within 14 days of receipt of Mt Hyde's letter.

Dzintra King  
Member of Employment Relations Authority