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Kaur v GT Organics Limited (Christchurch) [2017] NZERA 1155; [2017] NZERA Christchurch 155 (21 September 2017)

Last Updated: 2 October 2017

IN THE EMPLOYMENT RELATIONS AUTHORITY CHRISTCHURCH

[2017] NZERA Christchurch 155
3017713

BETWEEN MANPREET KAUR Applicant

AND GT ORGANICS LIMITED Respondent

Member of Authority: Andrew Dallas

Representatives: Applicant in person

Don Tappin, Director of the Respondent

Investigation Meeting: On the papers

Determination: 21 September 2017

DETERMINATION OF THE AUTHORITY

A. GT Organics Limited (GT Organics) must pay Manpreet Kaur

within 28 days of the date of this determination:

(i) \$154.80 net and \$426.55 gross as unpaid wages; (ii) \$3586.25 as unpaid holiday pay.

B. GT Organics must also pay Ms Kaur within 28 days of the date of this determination \$71.56 as reimbursement of the Authority's filing fee.

Employment relationship problem

[1] Manpreet Kaur was employed by GT Organics Limited (GT Organics) for approximately two years.

[2] Ms Kaur claims she is owed unpaid wages and holiday pay by GT Organics.

[3] Ms Kaur sought to recover these outstanding amounts directly from GT Organics. Her efforts proved fruitless.

Issues

[4] The following is the issue for determination by the Authority: (i) Is Ms Kaur owed wages by GT Organics?;

(ii) Is Ms Kaur owed holiday pay by GT Organics?

The Authority's investigation

[5] Ms Kaur subsequently lodged a statement of problem in the Authority seeking payment of the outstanding amounts.

[6] GT Organics did not lodge a statement in reply or seek leave to lodge one out of time. Director of GT Organics, Don Tappin did, however, communicate to the Authority he is “not in a position to accept the claim or dispute the claim” as GT Organics “is simply not trading”.

[7] As Ms Kaur did not have access to her wage and time records, she was asked by the Authority to quantify her claims for unpaid wages and holiday pay based on her own best endeavours.

[8] Ms Kaur subsequently provided these calculations to the Authority. She said she was owed \$154.80 net and \$426.55 gross as unpaid wages and \$3586.25 gross as unpaid holiday pay.

[9] In response to the above information, I formed the view, in reliance on section

132(2) of the [Employment Relations Act 2000](#), an order for payment of the wage arrears and holiday pay should be made. I also decided it was appropriate to make the orders based on the information and calculations provided by Ms Kaur.

[10] On 1 September 2017, a Member's Minute was issued to the parties setting out the nature of Ms Kaur's employment relationship problem. GT Organics was asked to provide written comment on Ms Kaur's claims. Mr Tappin provided a response on behalf of GT Organics. He effectively reiterated the earlier position he communicated to the Authority.

[11] In addition, Mr Tappin suggested that if a “much smaller amount could be agreed” he could attempt to “borrow some money to pass to Ms Kaur”. However, minimum wages and holiday pay are minimum entitlements and it would be impermissible to forgo such entitlements as part of a settlement process.

Mr Kaur's claims for unpaid wages

[12] Ms Kaur claimed that she was owed outstanding wages. She claimed the amounts owed were \$154.80 net and \$426.55 gross. Ms Kaur provided calculations and other information to justify this claim.

[13] GT Organics failed to produce wage and time records to assist Ms Kaur in the calculation of the claim for wages. In the absence of any information from GT Organics disproving the claim and in reliance on [s 132\(2\)](#) of the Act, I accept Ms Kaur's claims for unpaid wages.

[14] GT Organics must pay Ms Kaur \$154.80 net and \$426.55 gross as unpaid wages within 28 days of the date of this determination.

Ms Kaur's claim for unpaid holiday pay.

[15] Ms Kaur claimed that she was owed unpaid holiday pay of \$3586.25 gross. Ms Kaur provided calculations and other information to justify this claim.

[13] GT Organics failed to produce wage and time records to assist Ms Kaur in the calculation of the claim for unpaid holiday. In the absence of any information from GT Organics disproving the claim and in reliance on [s 132\(2\)](#) of the Act, I accept Ms Kaur's claims for unpaid holiday pay.

[14] GT Organics must pay Ms Kaur \$3586.25 gross unpaid holiday pay within 28 days of the date of this determination.

Costs

[16] It is fair and reasonable in all the circumstances to require GT Organics to reimburse Ms Kaur for the Authority's filing fee of \$71.56. This amount must also be paid to Mr Kaur within 28 days of the date of this determination.

Andrew Dallas

Member of the Employment Relations Authority