

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Carol Anne King (Applicant)  
**AND** Paul O'Keefe (Respondent)  
**REPRESENTATIVES** Carol Anne King In person  
No appearance for Respondent  
**MEMBER OF AUTHORITY** Leon Robinson  
**INVESTIGATION MEETING** 21 April 2005  
**DATE OF DETERMINATION** 21 April 2005

**DETERMINATION OF THE AUTHORITY**

**Employment Relationship Problem**

- [1] Ms King claims arrears of wages and holiday pay.
- [2] I am satisfied that Paul O'Keefe ("Mr O'Keefe") he has been served with the statement of problem. Mr O'Keefe did not lodge a statement in reply in the Authority.
- [3] In the absence of the required response from Mr O'Keefe, I fixed a date for investigation meeting by a Minute dated 6 April 2005. I am satisfied that that Minute and a Notice of Investigation Meeting were duly served on Mr O'Keefe.
- [4] Having failed to comply with the Authority's regulations, Mr O'Keefe required the Authority's leave to defend Ms King's claim. He has sent correspondence to the Authority's support staff but has not sought leave to defend. I have not considered his unsolicited correspondence.
- [5] Mr O'Keefe did not appear at the Investigation Meeting today to seek leave. Accordingly, I proceeded to deal fully with the matter as if Mr O'Keefe had attended, pursuant to Clause 12 of Schedule 2 of the Employment Relations Act 2000 which is as follows:-

*12. Power to proceed if any party fails to attend-*

*If, without good cause shown, any party to a matter before the Authority fails to attend or be represented, the Authority may act as fully in the matter before it as if that party had duly attended or been represented.*

## Arrears of wages

[6] I am satisfied on the basis of Ms King's unchallenged evidence that she worked regular and frequent Sundays for ten hours and that she was not a casual worker in respect of work on Sundays but rather, was a permanent part-time worker.

[7] I am satisfied she is owed wages in respect of Sunday 30 January 2005, Sunday 6 February 2005, Sunday 13 February 2005 and Sunday 20 February 2005.

[8] I calculate the sum owing to Ms King in the gross sum of \$560.00 being four days x ten hours x \$14.00 per hour. **Paul O'Keefe is ordered to forthwith pay to Carol King the gross sum of \$560.00 as arrears of wages.**

## Holiday pay

[9] I am satisfied on the basis of Ms King's unchallenged evidence that she is owed holiday pay of three weeks.

[10] I calculate the sum owing to Ms King in the gross sum of \$420.00 being three days x ten hours x \$14.00 per hour. **Paul O'Keefe is ordered to forthwith pay to Carol King the gross sum of \$420.00 as holiday pay.**

## Interest

[11] As Ms King has not had the use of the sums owed to her by Mr O'Keefe, I think it fit that she have interest on the judgment sum from the date it became due and payable to her until the date of payment. **Paul O'Keefe is ordered to forthwith pay to Carol King interest on the judgment sum of \$980.00 at the rate of 9% per annum from 20 February 2005 until the date of payment.**

## Costs

[12] Ms King is entitled to be reimbursed her lodgement fee on this application. **Paul O'Keefe is ordered to forthwith pay to Carol King the sum of \$70.00 in respect of the lodgement fee.**

**Leon Robinson**  
**Member of Employment Relations Authority**

## Summary of Orders

- A. Paul O'Keefe is ordered to forthwith pay to Carol King the gross sum of \$560.00 as arrears of wages.**
- B. Paul O'Keefe is ordered to forthwith pay to Carol King the gross sum of \$420.00 as holiday pay.**
- C. Paul O'Keefe is ordered to forthwith pay to Carol King interest on the judgment sum of \$980.00 at the rate of 9% per annum from 20 February 2005 until the date of payment.**
- D. Paul O'Keefe is ordered to forthwith pay to Carol King the sum of \$70.00 in respect of the lodgement fee.**