

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Simon Paul Kingham (Applicant)
AND Department of Labour (Respondent)
REPRESENTATIVES Simon Kingham, applicant
Natasha Szeto, counsel for the respondent
MEMBER OF AUTHORITY Philip Cheyne
DATE OF DETERMINATION 9 December 2005

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Simon Kingham has had his application for paid parental leave declined because the application was not received by the Department of Inland Revenue until after he had returned to work from parental leave. Mr Kingham seeks relief under section 68 of the Parental Leave and Employment Protection Act 1987 to cure that irregularity.

[2] I have the benefit of a statement in reply lodged by the Department of Labour, the relevant government department. That reply tells me that Mr Kingham would be entitled to paid parental leave if the Authority remedies the irregularity. Both the Department of Labour and Mr Kingham confirmed that they were happy for the Authority to make this determination on the basis of the papers lodged without any further investigation meeting.

Reason for the late application

[3] Mr Kingham commenced parental leave on 8 August 2005 and his leave ended on 10 October 2005.

[4] Mr Kingham completed a paid parental leave application form and returned it to the HR administrator at his employer on or before 24 August 2005. There is a memo from the employer explaining its delay in completing the form and sending it on to the Inland Revenue Department. It is not necessary to outline those circumstances except to say that Mr Kingham bears no responsibility for them and indeed took some steps to hurry along the application. In those circumstances I do not hesitate to grant Mr Kingham the relief he seeks.

Conclusion

[5] I extend the time for Mr Kingham's application for paid parental leave and cure that irregularity.

Philip Cheyne
Member of Employment Relations Authority