

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2017] NZERA Auckland 92
5647343

BETWEEN

LABOUR INSPECTOR
Applicant

A N D

DALESON INVESTMENT
LIMITED
Respondent

Member of Authority: T G Tetitaha

Representatives: A Dumbleton, Counsel for the Applicant
No appearance by Respondent

Investigation Meeting: 29 March 2017 at Auckland

Submissions Received: 27 March 2017 from applicant

Date of Determination: 31 March 2017

**DETERMINATION OF
THE EMPLOYMENT RELATIONS AUTHORITY**

- A. **Daleson Investment Limited is ordered to pay wage arrears to the Labour Inspectorate for the benefit of the employees listed above pursuant to s.131 of the Employment Relations Act 2000 totalling \$12,542.52.**
- B. **An order for interest at 5% upon the judgment sum calculated from the date of this determination until payment pursuant to clause 11, Schedule 2, Employment Relations Act 2000.**
- C. **Costs are reserved.**

Employment Relationship Problem

[1] The Labour Inspector seeks wage arrears and penalties against the respondent employer.

Relevant Facts

[2] The Labour Inspector received a complaint about wage arrears owed to an employee Samardeep Singh in January 2016. It investigated the complaint. It determined there were wages owed to Mr Singh and several other respondent employees. It also sought penalties for breaches of the Minimum Wage Act 1983, Holidays Act 2003 and the Employment Relations Act 2000.

Nonappearance by respondent

[3] The respondent has not filed a statement of problem or attended any telephone conferences or the investigation meeting held on 29 March 2017. No good cause has been shown why he has neither participated nor attended before the Authority. In the circumstances I shall continue to hear and determine this matter in his absence.

Determination – Wages only

[4] Following the conclusion of evidence, I determined to deal the issue of wage arrears before penalties. This is to allow the respondent employer to make any payments determined as due and owing. This shall affect the amount of penalties (if any) that may be awarded. The penalties shall be heard in June/July 2017 on the papers.

[5] After considering the evidence filed and hearing from the Labour Inspector and Mr Samardeep Singh, I accept the below named employees are owed wages in the form of wages arrears, holiday pay and public holiday pay. I further accept after hearing from Mr Singh that he was owed wage arrears for working 40 hours per week at \$16 per hour¹. The Labour Inspector was directed to recalculate the wages for Samardeep Singh based upon his employment contract.

[6] The below table encapsulates their evidence and the recalculated figure for Mr Samardeep Singh:

¹ Mr Singh produced an employment agreement that included his hours of work as 40 hours per week @ \$16 per hour.

Employee	Wage Arrears	Holiday Pay	Public Holiday Pay arrears	Public Holiday Pay (days in lieu)	Total
Samardeep Singh	7608.75	2478.12	338.88	538.32	10,964.07
Jingying (Mike) Liang	30.71 ²	23.55	135.38	128.25	317.89
Opinder Chahal		251.84			251.84
Jagmeet Singh		753.28			753.28
Komalpreet Singh			60.00		60.00
Sikender Baksh			195.44		195.44

[7] This is an appropriate case for interest to be charged. Given the differing end dates and the small amounts owed to the affected employees except Mr Singh, the time taken to calculate the sums owed could possibly outweigh any benefit. Therefore I have determined to charge interest from the date of this determination until payment.

Orders

[8] The following orders are now made:

- A. Daleson Investment Limited is ordered to pay wage arrears to the Labour Inspectorate for the benefit of the employees listed above pursuant to s.131 of the Employment Relations Act 2000 totalling \$12,542.52.
- B. An order for interest at 5% upon the judgment sum calculated from the date of this determination until payment pursuant to clause 11, Schedule 2, Employment Relations Act 2000.

² These wage arrears arise from hours worked and paid at a rate below minimum wage.

C. Costs are reserved.

T G Tetitaha
Member of the Employment Relations Authority