

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2016] NZERA Christchurch 57
5542917

BETWEEN KIM BALDWIN LABOUR
INSPECTOR, MINISTRY OF
BUSINESS, INNOVATION AND
EMPLOYMENT
Applicant

A N D GOLDENGROVE STUD FARM
LIMITED
Respondent

Member of Authority: Helen Doyle

Representatives: Greg La Hood, Counsel for Applicant
Andrew Riches, Counsel for Respondent

Date of Determination: 9 May 2016

CONSENT DETERMINATION OF THE AUTHORITY

[1] On 21 August 2015, an investigation meeting was held by the Employment Relations Authority (the Authority) in respect of this matter.

[2] An issue before the Authority was whether Kyra Jamie was a volunteer or an employee. Another issue for determination was, that if Ms Jamie was an employee, whether she was employed by the respondent or Phillippa Ann Silcock.

[3] The Authority determined that Ms Jamie was an employee of the respondent. Counsel are referred to the determination of the Authority *Kim Baldwin, Labour Inspector, Ministry of Business, Innovation and Employment and Goldengrove Stud Farm Ltd and Phillippa Ann Silcock* [2015] NZERA Christchurch 170 [12 November 2015] in respect of those findings.

[4] In light of the findings in the 12 November 2015 determination, the parties were directed to discuss the claims made by the Labour Inspector with a view to reaching agreement on them.

[5] The parties have reached agreement and have asked the Authority to record their settlement as a consent determination and make orders.

[6] The respondent has breached s 6 of the Minimum Wage Act 1983. The respondent has breached ss 23, 50 and 60 of the Holidays Act 2003.

[7] The parties have discussed the claims and agreement has been reached between the parties as follows:

- (i) The respondent, pursuant to s 11 of the Minimum Wage Act 1983, will pay \$2,587.25 gross arrears for unpaid work to the Labour Inspector for the use of Kyra Jamie.
- (ii) The respondent, pursuant to s 77 of the Holidays Act 2003, will pay \$1,502.81 gross arrears in holiday pay to the Labour Inspector for the use of Kyra Jamie.
- (iii) The respondent will pay interest on the outstanding sum at the rate of 5% per annum from 25 February 2014. Interest shall accrue at this rate until the date of the first payment of the arrears.
- (iv) The respondent will pay a penalty of \$3,000 to the Employment Relations Authority for transfer to the Crown Account for breaches of the Minimum Wage Act 1983 and the Holidays Act 2003.
- (v) The respondent will reimburse the Labour Inspector for the cost of the filing fee for the proceedings of \$71.56.
- (vi) The respondent will pay the amounts in (i) to (v) in full by instalment in separate payments.
- (vii) The first payment of \$3,000 for arrears in wages will be paid to the Labour Inspector for the use of Kyra Jamie within one month of the date of this determination.

(viii) The balance of the arrears owing, filing fee cost and penalty will be paid within two months of the date of this determination.

[8] The terms of settlement become the orders of the Authority by consent.

Helen Doyle
Member of the Employment Relations Authority