

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
Auckland OFFICE**

BETWEEN	Catherine Anne Lethbridge, Labour Inspector (Applicant)
AND	Dey Street Management Limited (Respondent)
REPRESENTATIVES	James Wilson for Applicant No Appearance for Respondent
MEMBER OF AUTHORITY	Vicki Campbell
INVESTIGATION MEETING	20 June 2006 21 June 2006
DATE OF DETERMINATION	

DETERMINATION OF THE AUTHORITY

- [1] This employment relationship problem concerns the recovery of unpaid holiday pay. Catherine Lethbridge, a Labour Inspector from Hamilton, filed a statement of problem in the Employment Relations Authority on 7 April 2006. Ms Lethbridge claims Mr Dion Pritchard is owed \$1,200.00 in outstanding holiday pay. Email correspondence between the Hamilton Labour Inspectorate and Mr John Vincent, sole Director of Dey Street Management Limited on 6 and 7 March 2006, shows that there is no dispute that holiday pay is owing nor is the quantum disputed.
- [2] No statement in reply has been received from the respondent. Following a nil response to the initial notification of the employment relationship problem being filed in the Authority, a second letter was forwarded to the address for service of the offices of Dey Street Management Limited. The letter requested the respondent to file a statement in reply and advised that failure to do so would require the respondent to seek leave to respond to, or defend the matter. That letter was accepted and signed for by "PAM JMV".
- [3] On 25 May 2006 a copy of the notice of investigation meeting was couriered to the respondent. On 29 May 2006 the document was accepted and signed for by "PAM JMV". I am satisfied the respondents have been served notice of the investigation meeting.

- [4] The investigation meeting commenced at 10.00am on 20 June 2006. The respondent did not make an appearance at that time. The notice setting down the investigation meeting sets out the consequences of non-attendance. I adjourned the meeting briefly at 10.05am to allow the respondent the opportunity to appear.
- [5] During the adjournment I contacted Ms Mary Howlett, Employment Relations Authority Support Officer, and asked her to try and make contact with the respondent on two telephone numbers provided by the Labour Inspector.
- [6] Ms Howlett reports that she phoned the two contact numbers and in both instances the numbers rang for some time before being switched to an answer service.
- [7] I reconvened the investigation meeting at about 10.20am and considered the matter in terms of Clause 12 of Schedule 2 of the Act which empowers the Authority to proceed to act fully in a matter if a party fails to attend or be represented without good cause.
- [8] I did not consider that the respondent has shown "good cause" for its failure to attend the investigation meeting. Accordingly, I proceeded to act as fully in the matter as if the respondent had attended.
- [9] In correspondence to the Labour Inspector in March 2006 Mr Vincent says the respondent company is about to be liquidated. I checked the companies register before commencing the investigation meeting and note that as at 20 June 2006 the respondent company continues to be a registered company.
- [10] Mr Pritchard attended the investigation meeting and advised me that about three weeks ago Mr Vincent paid him \$545.00 of the \$1,200 holiday pay due to him. I am satisfied that the residual \$655.00 remains outstanding.

Dey Street Management Limited is ordered, pursuant to section 228(1) of the Employment Relations Act 2000 to pay to the Labour Inspector the sum of \$655.00. This amount is to be paid within 28 days of the date of this determination.

- [11] Ms Lethbridge has claimed interest on the above amount. As Mr Pritchard has not had the use of the money since the termination of his employment on 12 January 2006 I think it fit that he have interest on it.

Dey Street Management Limited is ordered to pay interest of 9.5% on the outstanding holiday pay, from 12 January 2006 until the date of payment, in accordance with this determination.

Costs

[1] This application required a filing fee of \$70.00. It is appropriate that the respondent reimburse the fee.

Dey Street Management Limited is ordered to pay to the Hamilton office of the Department of Labour the sum of \$70.00, within 28 days of the date of this determination.

Vicki Campbell
Member of Employment Relations Authority