

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2011] NZERA Auckland 251
5343160

BETWEEN WARRICK DALE LEVIS
 Applicant

AND AUTOWORX (CAMBRIDGE)
 LIMITED
 Respondent

Member of Authority: Robin Arthur

Representatives: Applicant in person
 None for Respondent

Investigation Meeting: 10 June 2011 by telephone conference

Determination: 10 June 2011

DETERMINATION OF THE AUTHORITY

**Within 14 days of the date of this determination Autoworx
(Cambridge) Limited must pay the following sums to Warrick
Levis:**

- (i) \$3227.34 as outstanding wages; and**
- (ii) Interest on \$3227.34 at the rate of 8.4 per cent p.a.
 from 26 March 2011 until paid in full; and**
- (iii) \$240 as a contribution to his legal costs; and**
- (iv) \$71.56 in reimbursement of the fee he paid to lodge this
 matter in the Authority.**

Employment Relationship Problem

[1] Warrick Levis worked as a mechanic in the workshop of a sales, service and parts automotive business operated by Autoworx (Cambridge) Limited (ACL). His employment ended on 25 March 2011.

[2] Mr Levis lodged an application in the Authority seeking a wages arrears order because he said ACL had not paid him the \$3227.34 recorded on the final pay slip given to him. He and his lawyer had made attempts to get the money paid but company representatives did not return telephone calls or letters to them.

[3] Track and trace courier records on the Authority file confirm copies of Mr Levis' application were served at ACL's registered office and its business premises. The company did not lodge a statement in reply.

[4] In light of the lack of response from ACL I considered this matter could be determined on the papers with an opportunity for the parties to be heard by telephone conference. For that purpose I set a date for an investigation meeting and had notice of it sent to the company's registered office and its business premises. A minute sent with the notice explained ACL could provide a telephone number at which its representative could be contacted in order to participate in the investigation meeting or, if it considered such an investigation meeting should not go ahead on that basis, it could advise the Authority in writing by no later than two days before the notified date.

[5] No response was received from ACL and the Authority proceeded with the investigation meeting. As no good cause was shown for the company's failure to attend or be represented I proceeded with the investigation meeting as allowed under clause 12 of Schedule 2 of the Employment Relations Act 2000.

Mr Levis' evidence

[6] Mr Levis attended the investigation meeting by telephone. Under affirmation he confirmed he had not received payment for the amount stated in his final pay slip. I accept his evidence that on 25 March 2011 he spoke with ACL manager Matt Young and was told his final pay would be paid in three instalments on the Monday of the three following weeks. He contacted Mr Young on 30 March when the first instalment was not paid and Mr Young undertook to make inquiries and contact him that day. Mr Levis' has not heard from Mr Young since and has received none of the three promised instalments. Neither did ACL respond to a demand letter from Mr Levis' lawyer on 14 April 2011.

[7] I am satisfied from Mr Levis' evidence that the money remains due to him and there is no dispute from ACL that he is entitled to the amount because that is what is stated on the final pay slip it gave to him.

Orders

[8] Under s131 of the Employment Relations Act I order ACL to pay wage arrears of \$3227.34 to Mr Levis. He is also entitled to interest on that amount from 26 March 2011 until it is paid in full. The interest rate is 8.4 per cent per annum, being the applicable rate as at the date of this determination under s.87(3) of the Judicature Act 1908.

[9] ACL must also pay Mr Levis \$240 as a contribution to his legal costs in pursuing wages due to him and reimburse him for the \$71.56 fee he paid to the Authority to lodge his application.

[10] The payments due are to be made within 14 days of the date of this determination.

[11] Should ACL fail to make the required payments Mr Levis may file an application in the District Court for enforcement of the determination by the court's bailiffs,¹ or seek a compliance order in the Authority.² If a compliance order was sought and made but not complied with, Mr Levis could seek orders from the Employment Court for the imposition of fines up to \$40,000, sequestration of property and terms of imprisonment up to three months.³

Robin Arthur
Member of the Employment Relations Authority

¹ Section 141 of the Act.

² Section 137(1)(b) of the Act.

³ Sections 138(6) and 140(6) of the Act.