

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKAURAU ROHE**

[2022] NZERA 304  
3167303

BETWEEN                      LYNX RECRUITMENT  
   LIMITED  
   Applicant

AND                              ANTONIO HALAPIO  
   Respondent

Member of Authority:      Robin Arthur

Representatives:            Amber Utting for the Applicant  
   None for the Respondent

Investigation Meeting:      On the papers

Determination:               8 July 2022

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**DETERMINATION OF THE AUTHORITY**

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- A. Antonio Halapio must pay the sum of \$5,766.28 to Lynx Recruitment Limited within 28 days of the date of this determination.**
- B. Mr Halapio must also reimburse Lynx \$71.56 for the fee paid to lodge its application to the Authority.**

**Employment Relationship Problem**

[1] Lynx Recruitment Limited (Lynx) said Antonio Halapio was assigned to work under a casual employment agreement for one of its clients. Lynx said Mr Halapio had not notified it when that assignment ended and continued to submit timesheets for a further five weeks. Lynx paid him for those submitted hours but, on learning that he had not worked for its client in those weeks, asked him to repay the money.

[2] An email Mr Halapio sent to a Lynx manager showed he did not dispute he should repay the money. He proposed repaying it by instalments of \$40 a week. Lynx

rejected that proposal as it would take more than two-and-a-half years to pay off the amount due. Instead Lynx asked Mr Halapio to pay “a lump sum to start with” and then discuss a payment plan for the remainder.

[3] When Mr Halapio did not reply to Lynx’s request, the company sought orders from the Authority. Mr Halapio did not reply to Lynx’s application to the Authority. A copy of its statement of problem was sent by courier to the residential address he had given the company and to the personal email address he used to communicate with the company. An Authority Officer also called a mobile telephone number given for him but got no answer to those calls.

[4] By email and telephone message the Authority notified Mr Halapio of a case management conference on 27 June 2022 to discuss Lynx’s application. He did not answer the call at the appointed time. In a brief discussion with Lynx’s representative, I advised that the Authority would give Mr Halapio notice in writing that, absent any response from him by 5 July, the Authority would issue a determination requiring him to repay Lynx the undisputed amount of \$5,766.28. The notice advising such orders would be made was sent to Mr Halapio by email and by courier to his residential address. A courier record shows the notice was delivered to the address on 4 July 2022.

[5] As of the date of this determination Mr Halapio has not sent any response by telephone, email or other correspondence to the Authority.

### **Orders**

[6] As there was no dispute that Mr Halapio was not entitled to receive the amount of \$5,766.28 paid to him for hours not worked, it was appropriate to make the order set out in paragraph A of this determination. He had not provided the Authority with any information or evidence that might have supported an order that such repayment be made in instalments.

[7] Lynx had not sought interest on the amount due or any costs for making its application to the Authority but was entitled to have the fee of \$71.56 repaid by Mr Halapio, as set out in paragraph B of this determination.

[8] The Notice sent to Mr Halapio about the prospect of an order to repay the money being made also noted that, if he does not make the repayment now required by the due

date, the Authority's order may be filed in the District Court and enforced in the same manner as an order of the District Court.<sup>1</sup>

Robin Arthur  
Member of the Employment Relations Authority

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<sup>1</sup> Employment Relations Act 2000, s 141(1).