

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2011] NZERA Auckland 454
5325286

BETWEEN

KRYSTINA LOUISE
MCGREGOR
Applicant

AND

RIGHTSIDE PROPERTIES
LIMITED
Respondent

Member of Authority: Dzintra King

Representatives: Applicant In Person
Neal Summers, Advocate for Respondent

Investigation Meeting
by Telephone: 15 September 2011

Determination: 20 October 2011

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The applicant, Ms Krystina McGregor, seeks payment of her holiday pay.

[2] The respondent, Rightside Properties Limited, did not file a Statement in Reply.

[3] Mr Neal Summers told the Authority he would supply time and wages records. This has not happened.

[4] Pursuant to s 132 (2) Employment Relations Act 2000 I accept as proved the claims made by the applicant.

[5] Ms McGregor says she was employed for six months from 18 February 2010 to 20 August 2010.

[6] Ms McGregor says Mr Summers told her she was not entitled to holiday as she had not been employed for a full year. Section 23 Holidays Act 2003 sets out the method of calculation of holiday pay if employment is for a period less than 12 months. This provides for the payment of 8% of the employee's earnings since the commencement of employment.

[7] Ms McGregor's pay rate was \$14 per hour and she worked 41 hours per week.

[8] Ms McGregor is entitled to be paid holiday pay at the rate of 8% for the period of her employment.

[9] Ms McGregor worked 1061 hours and earned \$14,854.00. Her holiday pay entitlement is \$1,188.32.

[10] Section 84 Holidays Act 2003 gives the Authority the power to award interest on unpaid holiday pay at the rate not to exceed that out in Clause 11 of the Schedule 2 of the Employment Relations Act 2000. This is the rate prescribed under 87 (3) Judicature Act 1908 which is 7.5% per annum.

[11] The respondent is to pay the applicant interest at the rate of 7.5% on the sum of \$1,188.32, the interest to run from 20 August 2010 until the amount is paid in full.

[12] The respondent is also to pay the applicant the filing fee of \$71.56.

Dzintra King

Member of the Employment Relations Authority