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Moore v Real World Ltd CA 129/07 (Christchurch) [2007] NZERA 833 (5 November 2007)

Last Updated: 23 November 2021

IN THE EMPLOYMENT RELATIONS AUTHORITY CHRISTCHURCH

CA 129/07 5099375

BETWEEN JOANNE ELIZABETH MOORE

Applicant

AND REAL WORLD LIMITED

Respondent

Member of Authority: Paul Montgomery Representatives: Applicant in Person

Mr Ross Thompson, for Respondent Investigation Meeting: On the papers

Determination: 5 November 2007

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant was employed as a Marketing/Business Development Manager for the respondent and its associated group of companies. Ms Moore was paid a salary of \$75,000 per annum and had the use of a company car.

[2] A pattern of erratic salary payments developed which made the applicant uneasy about the stability of her position and when offered a position elsewhere, Ms Moore accepted it. She gave the respondent one month's notice and engaged in considerable correspondence with the respondent to recover her unpaid salary, holiday pay, reimbursements of expenses incurred in the course of employment and latterly expenses incurred in attempting to recoup these payments.

[3] As rivers of ink have flowed between the parties on these issues, there is little to be gained by adding substantially to the torrent.

[4] The applicant has provided both the respondent and the Authority with the sums in question. They are:

- Salary \$7,213.64;
 - Holiday pay \$1,236.60;
 - Expenses \$271.82;
 - IRD charges \$785.98;
 - Solicitors' costs \$1,350.

[5] When attempting to contact the respondent to participate in a teleconference on this matter, the senior support

officer received a reply which included the following statements:

We are not disputing Ms Moore's rightful claim to wages but until the refinancing is complete there are only the funds in the hands of the receivers.

We expect that the refinancing will be completed shortly and all claims settled. I can see no advantage in a teleconference as we do not dispute the claim.

Regards,

Ross Thompson (signed) Real World Director

Discussion

[6] The respondent, through its director, has declined the opportunity to be heard by the Authority on this matter. It has acknowledged the applicant's *rightful claim to wages* which also includes Ms Moore's statutory entitlement to holiday pay. The IRD charges arise from a miscalculation on the part of the respondent and the business expenses arose in carrying out her duties for the respondent. Both are payable by the respondent.

[7] In a letter to the applicant's legal advisor, Mr Tony McIntyre, the General Manager of the respondent wrote on 22 August 2007;

As of today the 22nd of August 2007 we can confidently commit to the final payment of the outstanding debt to Ms Moore on or before Friday the 7th of September 2007.

[8] That undertaking was not honoured and the applicant lodged her claim with the Authority on 25 September 2007.

[9] In order to finally progress the matter, Ms Moore placed it in the hand of her solicitor which incurred further costs. Having reviewed the Lane Neave account, the total of \$1,200 plus GST

appears reasonable given the work undertaken. Ms Moore has also incurred the cost of filing the matter with the Authority, that is, \$70.

Determination

[10] The respondent is ordered to pay Ms Moore the sum of \$8,450.24 for salary and holiday pay;

The respondent is ordered to pay Ms Moore reimbursement of business expenses and IRD expenses in the sum of \$1,057.80;

The respondent is ordered to pay Ms Moore the sum of \$1,350 (inclusive of GST) to meet her reasonably incurred legal costs;

The respondent is ordered to reimburse Ms Moore the \$70 filing fee.

[11] These sums are due and payable upon the issue of this determination.

Paul Montgomery

Member of the Employment Relations Authority