

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 460/09
5285173

BETWEEN DAVID MYATT, LABOUR
 INSPECTOR
 Applicant

AND ALI ALKHAFAJI T/A
 SYLVANA HAIR
 Respondent

Member of Authority: Robin Arthur

Representatives: Labour Inspector in person
 No appearance for Respondent

Investigation Meeting: 18 December 2009 in Auckland

Determination: 18 December 2009

DETERMINATION OF THE AUTHORITY

[1] The Labour Inspector seeks orders under s137(1)(b) of the Employment Relations Act 2000 (the Act) requiring Ali Alkhafaji to comply with the orders made in Authority determination AA332/09 (14 September 2009).

[2] Mr Alkhafaji did not attend the investigation meeting. I am satisfied from records on the Authority's file that the statement of problem and a notice of meeting were served on Mr Alkhafaji at his current business address. The Labour Inspector had personally served Mr Alkhafaji with notice of the original investigation at that address and later personally delivered a copy of determination AA332/09 to that address. No good cause for Mr Alkhafaji's absence was shown and I have proceeded to determine this matter: Clause 12 of Schedule 2 of the Employment Relations Act 2000 (the Act) applied.

[3] I am satisfied from the evidence of the Labour Inspector that Mr Alkhafaji has

had adequate opportunity to pay the required sum and failed to do so.

Compliance order under s137 of the Act

[4] Mr Alkhafaji is ordered to comply with the orders made in Authority determination AA332/09 by paying the sum of \$6516.65 to the Labour Inspector by no later than 11 January 2010.

[5] The sum ordered comprises the following amounts:

- (i) \$4364.30 for holiday pay owed to Ms Angell (for the benefit of Ms Angell);and
- (ii) \$82.35 as interest on that amount for the period from 22 April to 14 September 2009 (for the benefit of Ms Angell); and
- (iii) \$2000 as penalties for the identified breaches of the Holidays Act (and to be transferred to the Crown account); and
- (iv) \$70.00 in reimbursement of the Inspector's fee for lodging this claim in the Authority.

[6] Mr Alkhafaji is also ordered to pay a further sum of \$70.00 in reimbursement of the Labour Inspector's fee for lodging an application for a compliance order in the Authority.

[7] If Mr Alkhafaji fails to pay the amounts due by 11 January 2010, the Labour Inspector may seek further orders from the Employment Court to seize Mr Alkhafaji's property, fine him up to \$40,000 or imprison him for up to three months (refer s138(6) and s140(6) of the Act).

Robin Arthur
Member of the Employment Relations Authority