

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 218/08
5124261

BETWEEN

PATRICK O'CONNELL
Applicant

AND

OTOROHANGA SHEARING
Respondent

Member of Authority: Vicki Campbell

Investigation Meeting: 24 June 2008 at Hamilton

Determination: 24 June 2008

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Mr O'Connell was employed as a shearer by the respondent.

[2] In his statement of problem, lodged in the Employment Relations Authority on 15 May 2008 Mr O'Connell says he is owed outstanding wages, and holiday pay by Otorohanga Shearing.

[3] No statement in reply was received from the Respondent. In a memorandum dated 17 June 2008 the Respondent was advised that the matter had been set down and reminded that should it attend the investigation meeting it would require leave to reply or respond to Mr O'Connell' application. The Notice of Investigation Meeting sets out the consequences for the Respondent if it does not attend the investigation meeting.

[4] As at the scheduled commencement time for the investigation meeting, no representative of Otorohanga Shearing was present. I am satisfied the respondent received the notice of investigation meeting. The Authority attempted to contact Ms Hayley Tragmar but no response was received.

[5] Otorohanga Shearing has not shown good cause for its failure to appear or be represented. After waiting for 30 minutes in the off chance that the respondent had been held up in traffic, I proceeded under clause 12 of Schedule 2

to the Employment Relations Act 2000 to hear and determine the matter as if Otorohanga Shearing had attended or been represented.

Terms and conditions of employment

[6] Mr O'Connell was paid by piece rate of \$1.20 per sheep shorn. Mr O'Connell was also paid a gear allowance of 10% of his weekly earnings and 10% holiday pay in addition to his weekly pay.

Outstanding Wages and Holiday Pay

[7] Mr O'Connell claims payment for the shearing of 1,161 sheep as follows:

- 5 January 2008 353
- 21 January 2008 289
- 22 January 2008 169
- 23 January 2008 350

[8] Mr O'Connell is entitled to payment for 1,161 sheep at the rate of \$1.20 making a total of \$1,393.20. In addition, Mr O'Connell is entitled to payment of his gear allowance of \$139.32 plus holiday pay of \$139.32.

Orders

[9] Otorohanga Shearing is ordered to pay to Mr O'Connell, within 14 days of the date of this determination, the sum of \$1671.84 gross being unpaid wages and holiday pay, pursuant to section 131 of the Employment Relations Act 2000.

[10] Mr O'Connell is entitled to reimbursement of the Authority's filing fee of \$70.00. Otorohanga Shearing is ordered to pay him that amount within 14 days of the date of this determination.

Vicki Campbell
Member of Employment Relations Authority