

[4] Given the respondent's failure to adhere to my direction to attend mediation, I set this matter down for investigation meeting.

[5] As at the scheduled commencement time for the 28 April 2008 investigation meeting, no representative of Parnza Trading Trust was present. I am satisfied Parnza Trading Trust received the notice of investigation meeting. The Authority contacted the respondent and was advised that no one would be attending the investigation meeting.

[6] Parnza Trading Trust has not shown good cause for its failure to appear or be represented. I proceeded under clause 12 of Schedule 2 to the Employment Relations Act 2000 to hear and determine the matter as if Parnza Trading Trust had attended or been represented.

Employment Relationship Problem

[7] Mr Oldridge was employed as a Shuttle Bus Driver working variable hours as and when required. Generally speaking he was advised each day what his hours would be for the following day.

[8] Mr Oldridge claims payment of outstanding wages plus interest and his expenses involved in making this application. In its statement in reply, the respondent has denied any money is outstanding to Mr Oldridge.

[9] Mr Oldridge commenced employment for PARNZA Trading Trust ("PARNZA") on 17 April 2007. He was subject to a written employment agreement, which provided for a probationary period of three months. Mr Oldridge's trial period proceeded without incident and ended on 16 July 2007.

[10] The remuneration clause of the employment agreement provided for the payment of wages at the rate of \$13.50 per hour during the probationary period, rising to \$14.00 per hour upon successful completion of the probationary period.

[11] The public holiday's clause of the employment agreement specifies that payment for a public holiday on a day that would otherwise be a working day is at time and half for each hour worked plus a day off in lieu. The employment agreement

also provides that where a public holiday is not otherwise a working day, then payment is at time and half, but there will be no day off in lieu.

[12] On 12 September Mr Oldridge wrote to the respondent by email seeking clarification about his pay for the preceding two weeks and issues relating to the payment for work undertaken on public holidays.

[13] On 22 February 2008 Mr Oldridge tendered his resignation. At the same time he requested payment of outstanding wages to be paid to him.

[14] Mr Oldridge claims unpaid wages and \$75.00 which he says was deducted unlawfully from his wages. Mr Oldridge says he picked up 2 passengers and brought them back from Auckland in accordance with the instructions he had received from the respondent's office. On delivering the passengers to Tauranga Mr Oldridge discovered the couple had booked with a different shuttle service and had pre-paid with that service. They refused to pay a second time.

[15] The employment agreement between the parties does not allow for deductions in situations as described above. I am satisfied Mr Oldridge was simply carrying out the instructions of the respondent in picking up the passengers. The office had provided Mr Oldridge with name plates with the passengers names on to show as passengers embarked from the Customs Hall at Auckland International Airport. Mr Oldridge can not be held responsible for picking up the passengers he was instructed to pick up. I find the \$75 deduction was an unlawful deduction.

[16] Mr Oldridge provided me with a copy of a spreadsheet whereupon he had calculated what he believed to be owing to him by way of arrears of wages. However, the figures presented in the spreadsheet do not equate to the wages agreed to be paid under the employment agreement. I have therefore recalculated the wages owing based on the hours Mr Oldridge worked throughout his employment with the Respondent.

[17] Using the figures presented by Mr Oldridge in his spreadsheet I have concluded Mr Oldridge was paid a total of \$22,647.92 Nett. Taking into account the tax (amounting to \$5,721.90) which was deducted at source (but not apparently paid

to IRD as required), Mr Oldridge received a total of \$28,314.82 gross. On top of this Mr Oldridge was entitled to be paid for 5 days in lieu of working public holidays and 8% holiday pay.

[18] According to my calculations based on the hours Mr Oldridge worked extrapolated out by the applicable hourly rate, Mr Oldridge was entitled to receive a total gross amount of \$30,352.02. What he actually received was \$28,314.82. Mr Oldridge is entitled to arrears of wages of \$2,037.20 plus \$75.00 unlawfully deducted from Mr Oldridge's wages in July 2007.

[19] Mr Oldridge seeks interest on the amount owed to him. Exercising the discretion to award interest under clause 11 of Schedule 2 of the Act, I think it fit to order Parnza Trading Trust to pay to Ms Mueller interest at the rate of 10 per cent.

[20] Interest is to be calculated from 1 March 2008 until the date the sum is paid to Mr Oldridge.

Parnza Trading Trust is ordered to pay to Mr Oldridge the amount of \$2,112.20 plus interest within 7 days of the date of this determination.

Mr Oldridge is entitled to reimbursement of the Authority's filing fee of \$70.00. Parnza Trading Trust is ordered to pay him that amount within 7 days of the date of this determination.

Vicki Campbell
Member of Employment Relations Authority