

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 191/09  
5150133

BETWEEN LYNN PARKES  
Applicant  
AND SPECIALISED SALES AND  
MARKETING LTD  
Respondent

Member of Authority: Dzintra King  
Representatives: Applicant In Person  
Penny Shaw for Respondent  
Investigation Meeting: 16 April 2009  
Determination: 18 June 2009

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] The applicant, Mr Lynn Parkes, was made redundant by the respondent, Specialised Sales and Marketing Ltd. Mr Parkes asked the respondent to supply him with his time and wages and holiday records.

[2] The respondent, which is based in Christchurch, initially resisted doing so on the basis that the majority of the records were archived and would take substantial resources to locate. The company told Mr Parkes that he could make an appointment and travel to Christchurch from Auckland and access the records.

[3] After a telephone conference the respondent agreed to contact DataCom who would be able to access the records and would send them to the applicant as soon it received confirmation that he would accept the records as full and final settlement of his claim. A letter to that effect was dated 7 April 2009.

[4] Mr Parkes said he wished to proceed with his claim.

[5] On 15 April Ms Shaw notified the applicant and the Authority that the records for the period 3 November 2002 to 3 November 2008 (being 6 years) had been sent to the applicant by DataCom that day. Ms Shaw asked to be excused from attending the hearing if the matter was to proceed. I granted that request and met with Mr Parkes the following day.

[6] Mr Parkes had not yet received the records.

[7] At the hearing I explained to Mr Parkes, who wanted records for the entire period of his employment, that the employer's legal obligation was to supply records relating to the employment of the employee at any time in the preceding six years during which the employer was obliged to keep a record.

[8] Mr Parkes was concerned that the employer had paid him an amount owed as wages and holiday pay as a non taxable allowance thereby compromising his position with IRD.

[9] I have subsequently been supplied with a copy of the records and on their face they satisfy the requirements of s 130 Employment Relations Act 2000 except that the employee's work is not specified nor is his contractual status.

[10] I am not in a position to comment on the veracity of the information in the records.

[11] I would comment that if the employer has records for the entirety of Mr Parkes' employment that it would be in the spirit of good faith for those records to be supplied as well as the ones to which the applicant is entitled.

Dzintra King

Member of the Employment Relations Authority