

[4] On the day of the investigation a member of the Authority's support staff was in contact with the on-site manager regarding the respondent's attendance at the investigation meeting: "Paul" (name given to support officer) advised the respondent would not be attending but that its accountant would shortly be in touch with the Authority. Shortly thereafter the support officer spoke to Mr Barrie Skinner of Tax Planning Services Limited: he denied knowledge of the claim and proceedings and sought details which are to be copied to him (including the statement of problem). This determination is also to be copied to Mr Skinner. My efforts to make telephone contact with Mr Skinner during the morning of the investigation were not successful as he did not return my call.

[5] I was satisfied the Company had notice of the applicants' claims and of the investigation.

[6] Since the Company did not attend and was not represented at the meeting, and has not shown good cause for its failure to attend or be represented, I have proceeded to hear and determine this matter under Clause 12, Schedule 2 of the Employment Relations Act 2000.

Good Faith

[7] In the event of a challenge to this determination I draw these matters to the attention of the Employment Court in respect of s 181 of the Employment Relations Act 2000 (the Act).

Discussion and Findings

[8] Ms Schmitz gave affirmed evidence that she had authority to represent the other applicants and that the basis of their claims which, she confirmed at the investigation, extended to recovery of holiday pay as well as wages, interest on all monies owing and recovery of the \$70 filing fee.

[9] Correspondence attached to the statement of problem confirms that Ms Schmitz's efforts to obtain clear pay and time records from the Company went unanswered.

[10] The respondent has not contested in any way the claims brought against it.

[11] For the reasons set out above I am satisfied that the applicants are owed the following:

- a. Maike Schmitz is owed unpaid wages totalling \$819.25 gross, un-quantified holiday pay, interest on those monies and the filing fee of \$70;
- b. Karl Holland is owed unpaid wages totalling \$1,753.50 gross, un-quantified holiday pay and interest on those monies; and
- c. Zhu Meng is owed unpaid wages totalling \$13,208.24 (i.e. a reduced figure from that set out in the statement of problem reflecting a recent payment by the respondent to him of \$2,000), un-quantified holiday pay and interest on those monies.

[12] In the absence of wage and time records it is not possible to calculate holiday pay owed to the applicants. Leave is reserved to the parties to return this matter to the Authority in the event agreement is not forthcoming as to the sums involved.

[13] I am satisfied that, having regard to the current 90-day bill rate, interest of 5% should be charged on the outstanding monies from the date they were payable. Again, leave is reserved to the parties to return this matter to the Authority in the event agreement is not forthcoming as to the sums involved and/or the date from which the interest is to be calculated.

Determination

[14] The Company is ordered to pay:

- a. Maike Schmitz is owed unpaid wages totalling \$819.25 gross, un-quantified holiday pay, interest on those monies and the filing fee of \$70;

- b. Karl Holland is owed unpaid wages totalling \$1,753.50 gross, un-quantified holiday pay and interest on those monies; and
- c. Zhu Meng is owed unpaid wages totalling \$13,208.24, un-quantified holiday pay and interest on those monies.

Denis Asher

Member of the Employment Relations Authority