

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURAU ROHE**

[2023] NZERA 667
3156461

BETWEEN	SUSHIL SEHJI Applicant
AND	SWIRE SHIPPING PTE. LIMITED Respondent

Member of Authority:	Alastair Dumbleton
Representatives:	Applicant in person Stephen Langton, counsel for the Respondent
Submissions received:	6 November 2023
Determination:	10 November 2023

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] In its determination of 25 October 2023¹, the Authority directed the respondent Swire Shipping Pte. Ltd (Swire) to produce copies of any records which showed the applicant, Sushil Sehji, had either taken alternative holidays or had been paid out for them when his employment with Swire finished. The alternative holidays were found by the Authority to have accrued from work Mr Sehji performed on two public holidays².

¹ *Sushil Sehji v Swire Shipping Pte. Ltd*, [2023] NZERA 626

² Above at [167]

[2] The Authority determined that Mr Sehji's claim to recover pay for those in-lieu days was to be upheld unless Swire was able to show payment had been made for them.

[3] On 6 November 2023, Mr Langton counsel for Swire advised that there were no records of any payment and Swire acknowledged it would follow that Mr Sehji's claim would be allowed.

[4] As directed by the Authority, Mr Langton copied his advice to Mr Sehji. He raised no issues but gave his view as to how interest on the amount due to him should be calculated.

[5] The Authority now orders Swire to pay Mr Sehji for two alternative holidays the sum of \$1,180.00 gross, due to him under s 60(2) of the Holidays Act 2003.

[6] Interest is to be paid from 26 November 2021, the date Mr Sehji brought his claim to the Authority.

[7] The parties agree that interest is to be calculated on the 'after tax' pay Mr Sehji is entitled to from this determination.

Alastair Dumbleton
Member of the Employment Relations Authority