

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2019] NZERA 570  
3065872

BETWEEN

PERMINDER SINGH  
Applicant

AND

RADLEY HAULAGE LIMITED  
Respondent

Member of Authority: Trish MacKinnon

Representatives: Applicant in person  
No appearance for Respondent

Investigation Meeting: 4 October 2019

Date of Determination: 4 October 2019

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Perminder Singh claims unpaid wages and holiday pay against the respondent company. Mr Singh was employed as a driver by the respondent between 11 March and 3 May 2019. He terminated his employment from 3 May over his employer's failure to pay wages due to him when they fell due. At the commencement of Mr Singh's employment he was advised his wages would be paid fortnightly. However that did not happen and he was later informed he would be paid monthly.

[2] Radley Haulage Limited (Radley Haulage) is a duly registered company formed in May 2004 according to information obtained from the New Zealand Companies Register. The sole director and shareholder of Radley Haulage is Michael Edward Radley.

[3] Radley Haulage did not respond to Mr Singh's statement of problem which was served upon it at its registered office. It neither filed a statement in reply nor applied under Regulation 8(3) of the Employment Relations Authority Regulations 2000 for leave to respond to Mr Singh's application.

[4] The Authority informed Radley Haulage by letter, which was served on its registered address for service and on an additional address supplied by the applicant for Mr Radley, of the date and time a telephone conference was to be convened with the Authority and the parties. Neither Mr Radley nor any other representative of Radley Haulage attended the telephone conference and there has been no response from the respondent to any communications from the Authority Officer managing the file.

[5] Following the telephone conference, held on 16 September 2019, a Notice of Investigation Meeting was sent to the parties. The Notice advised that the Authority was to conduct an Investigation Meeting in relation to the matter on 4 October 2019, commencing at 9.30 a.m. It advised this would be done via a video conference call from the Authority's Wellington office. The applicant was directed to attend from the Authority's Auckland office and the respondent was directed to attend from the Authority's Christchurch office.

[6] That Notice of Direction was sent to Radley Haulage's registered address and to the additional address provided for Mr Radley by Mr Singh.

### **The Authority's investigation**

[7] On the morning of the investigation meeting, no representative for the respondent attended the Authority's Christchurch office. An Authority officer attempted to contact Mr Radley by telephone but received no response. She left a voice mail message for him asking that he contact her urgently and advising that the Authority investigation would proceed in the respondent's absence if there was no contact from him.

[8] I delayed the commencement of the investigation meeting to allow time for Mr Radley to contact the Authority officer or for a representative of the respondent to arrive in the Christchurch office. No contact was received from the respondent. I am satisfied that documents relating to this matter have been correctly served on Radley Haulage. I commenced the investigation meeting without the respondent in accordance with clause 12 of Schedule 2 to the Employment Relations Act 2000 (the Act).

[9] In the course of the investigation meeting Mr Singh provided evidence under affirmation and I questioned him about his employment and any wage payments he received. As a result of the enquiries I have made and the evidence I have sighted I have accepted Mr Singh's evidence as to the wages he received during his employment, and the wages arrears that are due to him. I have also accepted, with one small correction, his calculation of the holiday pay he is owed. Mr Singh had underestimated this amount by \$0.64.

[10] I have concluded Mr Singh received two wage payments during his eight weeks of employment, the first being a direct credit payment of \$2,000 to his bank account, made on 12 April 2019. The second payment, which was of \$3,000, was made on 13 May 2019 by direct credit to Mr Singh's bank account. Mr Singh was not provided with payslips. He told me he was, and remains, concerned there was no evidence of tax being deducted.

[11] Mr Singh kept a record of the hours he worked on each of the days of his employment. His evidence, which I accept, was that he was paid \$22 per hour. He had signed an employment agreement with Radley Haulage but was not given a copy to retain. He recalled the agreement included that he would be paid for a minimum of 30 hours per week, Monday to Friday, and was not required to work on public holidays.

[12] Mr Singh's record of the hours he worked reveals that, over the eight weeks of his employment, the lowest number of hours he worked, or for which he was entitled to be paid, was 33 and the highest number of hours he worked in a week was 47.5.<sup>1</sup>

[13] The total gross wages to which Mr Singh was entitled between 11 March and 3 May 2019 was \$7,483. He received \$5,000 for the work he performed during that period, leaving a shortfall of \$2,483. Additionally, he was entitled to holiday pay calculated at 8% of gross earnings.<sup>2</sup> This would have been, if he had been paid the wages to which he was entitled, \$598.64.

[14] I conclude Mr Singh has been underpaid by \$2,483 and is owed holiday pay of \$598.64.

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<sup>1</sup> The 33 hours occurred in the week in which Easter Monday and Anzac Day fell.

<sup>2</sup> In accordance with s 23 Holidays Act 2003.

**Orders**

[15] Radley Haulage Limited is ordered to pay Perminder Singh wage arrears of \$2,483.00 gross and holiday pay of \$598.64 gross.

**Costs**

[16] Mr Singh represented himself in this matter and no question of costs arises.

**Trish MacKinnon**  
**Member of the Employment Relations Authority**