

[5] As at the scheduled commencement time for the 15 January 2008 investigation meeting, no representative of ABSL was present. I am satisfied ABSL received the notice of investigation meeting. The Authority contacted Mr Hart who was advised that the Authority would defer the commencement of the investigation meeting for half an hour to allow him to attend. Mr Hart advised the Authority that the business would be closing its doors shortly and that he would not be attending the meeting.

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

Terms and conditions of employment

[7] Mr Stokes commenced employment with ABSL on 12 June 2007. There was no written employment agreement, however, I have concluded that the relevant terms and conditions of Mr Stokes' employment included a salary of \$55,000 per annum. Mr Stokes agreed to provide his own vehicle, however expenses incurred by Mr Stokes in undertaking his employment were to be met by the Respondent. This was to be done via the use of an ATM card, however, a card was never provided to Mr Stokes.

Outstanding Wages and Holiday Pay

[8] I am satisfied Mr Stokes worked for a total of 11 weeks for ABSL. Mr Stokes evidence is that he received 6 salary payments during his employment of varying amounts. Based on a sum of \$800 nett per week Mr Stokes ought to have received \$8,800.00. Mr Stokes produced documents at the investigation meeting which showed that he received a total of \$8,592.30 nett in salary payments. Mr Stokes is therefore entitled to an amount of \$207.70 nett for outstanding wages.

[9] I am satisfied Mr Stokes received no holiday either during his employment or at the time it terminated. Working on the nett figures provided to the Authority, Mr Stokes is entitled to holiday pay in the amount of \$704.00 nett (based on a calculation of 8% of \$8,800.00).

Expenses

[10] As set out earlier in this determination, it was agreed that ABSL would reimburse Mr Stokes for expenses incurred in the course of undertaking his duties for the respondent. Mr Stokes has provided the Authority with a list of his fuel (\$383.18) and other expenses (\$69.96).

[11] Mr Stokes is entitled to be reimbursed an amount of \$453.14 for expenses incurred.

Orders

[12] Action Business Solutions Limited is ordered to pay to Mr Stokes, within 14 days of the date of this determination, the following amounts without deduction, pursuant to section 131 of the Employment Relations Act 2000:

- **\$207.70 unpaid salary due;**
- **\$704.00 holiday pay due;**
- **\$453.14 reimbursement of expenses.**

Interest

[13] As Mr Stokes has not had the use of the funds owed to him by ABSL it is appropriate that he should have interest on the amounts due.

[14] Action Business Solutions Limited is ordered to pay to interest on the amounts specified above at the rate of 8.0% per annum from 24 August 2007 until the date of payment and to do so within 14 days of the date of this determination.

Costs

[15] Mr Stokes is entitled to reimbursement of the Authority's filing fee of \$70.00. Action Business Solutions Ltd is ordered to pay him that amount in addition to the amounts set out above.

Vicki Campbell
Member of Employment Relations Authority