

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

WA 111/10  
5299153

BETWEEN                      CHARMMAINE KATALA  
   WILLIAMS  
   Applicant

AND                              TOM HOGGARD TRADING  
   AS THE DAILY SQUEEZE  
   Respondent

Member of Authority:      P R Stapp

Representatives:            Applicant in person  
   No appearance for Respondent

Investigation Meeting:     18 June 2010 at Wellington

Determination:              18 June 2010

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Charmaine Williams, a student, started work at the Daily Squeeze in August 2009 and worked there until November 2009. She says she was to be paid fortnightly and only got paid her wages when she prompted and pursued Mr Tom Hoggard, her employer, for payment. She claimed that she was not paid for her final three shifts at work on 18, 20 and 25 October 2009.

[2] Ms Williams informed me that she tried to get her pay by contacting Mr Hoggard. She says she left messages on his work and mobile telephones until it became too expensive and inconvenient. She made direct contact with him once, when she says he agreed to pay. She has not been paid her wages and holiday pay. She has calculated that she is owed \$200 in wages and holiday pay plus the \$70 filing fee.

[3] There has been no reply filed by Mr Hoggard.

### **Non attendance and no representation**

[4] There has been no good cause for Mr Hoggard's failure to attend or be represented at the Authority's investigation meeting. He has been served with the employment relationship problem and notice of the date, time and place for the investigation meeting by a support officer (details on the file). The start of the investigation meeting was delayed to enable an attempt to contact him. Without having any good cause to delay the investigation meeting any longer I decided to act fully in the matter as if Mr Hoggard was in attendance or been represented: see clause 2 Schedule 2 of the Employment Relations Act.

### **Issues**

[5] Is Ms Williams owed \$200 final pay for wages and accrued holiday pay?

### **The facts**

[6] Ms Williams was employed by Tom Hoggard. I accept her evidence that he was her employer personally, because he has not replied, not attended the Authority's investigation meeting and Ms Williams' evidence has not been challenged. She had no knowledge of any other legal entity involved in her employment. Indeed she was not able to identify a registered company or any details of a partnership that would otherwise be her employer. I looked on the companies' register and Mr Hoggard is a director of at least two companies, but there is absolutely no information available to identify what the purposes of the two companies are and whether or not they were set up to trade in business as the Daily Squeeze.

[7] The Daily Squeeze is a daily juicing business delivering juice to cafes around town.

[8] Ms Williams' role was to squeeze, fill, and scoop and dice fruit.

[9] Ms Williams had regular shifts on Sundays and Saturdays, and she sometimes worked on a Tuesday. Her average hours were 10-15 hours per week. She was paid twice during her employment. The payments were made to her bank account by the Daily Squeeze. There was no reference to any company paying the wages. This supports my earlier finding that Mr Hoggard was the employer personally.

[10] She was paid \$14 per hour.

[11] There was no written employment agreement. Mr Hoggard has not produced any wage time and holiday record despite being requested to do so by me (correspondence dated 24 May 2010). Ms Williams says she was required to fill out time cards held by the employer.

### **Determination**

[12] I accept Ms Williams' calculation of her wages and accrued holiday pay. Ms Williams is entitled to \$200 wages and holiday pay to be paid by Tom Hoggard personally.

[13] Ms Williams has been put to the unnecessary expense of having to file in the Authority to get an order for payment. Mr Hoggard is the cause for Ms Williams's costs and therefore he has an obligation to pay for the reimbursement of the \$70 filing fee.

### **Orders of the Authority**

[14] I order Tom Hoggard to pay Charmaine Williams \$200 outstanding wages and holiday pay.

[15] I also order Tom Hoggard to pay Charmaine Williams the \$70 filing fee.