

BETWEEN TASI AIONO
 Applicant

A N D TRADE PAINTERS EXPERTS
 LIMITED
 Respondent

Member of Authority: James Crichton

Representatives: Genevieve Kerr, Advocate for Applicant
 No appearance for Respondent

Investigation Meeting: On the papers

Date of Determination: 10 May 2013

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant (Mr Aiono) alleges that he is owed wages from his employment by the respondent (Trade Painters) for his employment from 2 July 2012 down to 26 July 2012.

[2] Despite the usual efforts by the Authority support staff to get an engagement from Trade Painters, none has been forthcoming. However, the Authority is satisfied that Trade Painters are aware of the claim and the steps that they needed to take in order to address it in the Authority. The Authority is satisfied that the decision of Trade Painters not to engage is deliberate rather than inadvertent. The Authority is satisfied that the interests of justice require that a determination to issue.

[3] The evidence available to the Authority suggests that Mr Aiono was employed for a brief period from 2 July 2012 to 26 July 2012 and that the employment with

Trade Painters ceased when he was not paid in accordance with his executed employment agreement.

[4] That agreement provides *inter alia* that payment of wages was due on *every second Thursday*. There is also a provision entitling Trade Painters to withhold payment of the first week's wages as a sort of bond to be paid out on the termination of the employment.

[5] In any event, the short point is that Mr Aiono worked for Trade Painters for almost four complete weeks, was expecting his first pay on 26 July 2012 and when payment was not received on the due date, he raised the matter with the employer and says that he was threatened with the Police.

[6] The employment agreement provided with the application to the Authority is signed by both parties. It provides for wages to be paid by direct credit every second Thursday. When Mr Aiono was not paid after completing almost four weeks work and could not get any sort of sensible explanation from Trade Painters other than a threat of referring the matter to the Police, he withdrew his labour and sought work elsewhere.

[7] Mr Aiono seeks payment of the wages he was entitled to for the period of the employment, reimbursement of the Authority's filing fee plus his Bank's \$6 cheque fee together with seven days additional wages in the period before he found fresh employment.

Determination

[8] The Authority is satisfied that Mr Aiono has made out his claim and is entitled to be paid the following sums:

- (a) Payment of wages earned during the employment amounting to \$2,592 net, being \$18 per hour net for 18 eight hour days (2 July 2012 to 25 July 2012 both days inclusive).
- (b) The Authority's filing fee of \$71.56 together with the Bank cheque fee being a total of \$77.56.
- (c) Seven working days until the commencement of new employment being \$1,008.

[9] Trade Painters Experts Limited is directed to pay the total sum of \$3,677.56 to Mr Aiono.

James Crichton
Member of the Employment Relations Authority