

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

CA 69A/08  
5070207

BETWEEN                      STEPHANIE ATKINSON  
   Applicant  
  
AND                                SUTTON'S MOSS LIMITED  
   Respondent

Member of Authority:      Philip Cheyne  
  
Representatives:            Stephanie Atkinson in person  
   Linda and Les Sutton in person  
  
Submissions received:      29 May 2008 from the respondent  
   26 June 2008 from the applicant  
  
Determination:                4 July 2008

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**DETERMINATION OF THE AUTHORITY**

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[1]      In a determination dated 15 May 2008 I upheld some of Ms Atkinson's claims against Sutton's Moss in respect of wages and holiday pay and required the company to lodge details of its calculations in accordance with the findings expressed in that determination.

[2]      Calculations were received from Sutton's Moss on 19 May 2008. These were forwarded to Ms Atkinson for her comment and she responded on 26 June 2008 saying that she accepted the calculations.

[3]      These calculations combine the compensation award made in the earlier determination (\$2,500.00), the wages and holiday pay figure (net) payable to Ms Atkinson and the PAYE deduction to be made from the wages and holiday pay owed. The compensation award is already payable pursuant to the earlier order so this order will only deal with the wages and holiday pay not quantified in the earlier determination. There is an issue about the tax treatment of the \$2,500.00

compensation award. That is a matter for IRD but I draw the parties' attention to the IRD's public binding ruling (BR Pub 01/04) to the effect that awards under section 123(1)(c)(i) of the Employment Relations Act 2000 are classified as tax free capital payments.

[4] To return to quantifying the arrears of wages and holiday pay, for the purposes of this order, I will combine the net and PAYE figures. It is the responsibility of Sutton's Moss to attend to its tax obligations in respect of the wages and holiday pay paid to Ms Atkinson.

[5] Accordingly I now order Sutton's Moss Limited to pay Ms Atkinson wages and holiday pay amounting to \$1260.39 (gross).

[6] Finally, the question of costs has not been resolved. If Ms Atkinson intends to claim costs she must lodge a submission setting out details of her claim within 21 days. Sutton's Moss may lodge a reply within a further 14 days.

Philip Cheyne  
Member of the Employment Relations Authority