

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**AA 200/09  
5140701**

BETWEEN      VIRGINIA BOW  
                         Applicant

AND              ALLFLORS TURANGI LIMITED  
                         Respondent

Member of Authority:      Leon Robinson

Representatives:          Applicant In Person  
                         Grant Richard Ellery, Advocate for Respondent

Investigation Meeting:      24 April 2009 (by telephone)  
   1 May 2009 (at Waikeria Prison)  
   6 May 2009 (by telephone)

Further Information:        16 June 2009  
   18 June 2009

Determination:              23 June 2009

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**DETERMINATION OF THE AUTHORITY**

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**The problem**

[1]    The applicant Ms Virginia Jane Bow (“Ms Bow”) claims arrears of wages and holiday pay from her former employer the respondent Allflors Turangi Limited (“Allflors”).

**The facts**

[2]    Ms Bow and Allflors director Mr Grant Richard Ellery (“Mr Ellery”) were formerly acquainted as friends. Mr Ellery invited Ms Bow to manage the respondent’s flooring operation in his extended absence. Ms Bow accepted that employment and travelled from Auckland to Turangi to take up the employment.

[3]    Ms Bow commenced her employment in October 2007.

[4] I find it was agreed that Ms Bow would be paid \$17.00 per hour and work forty hours per week. I find she was paid time and one half for overtime hours. I further find her wage rate was increased to \$20.00 per hour from June 2008. The terms of Ms Bow's employment were not recorded in an individual written employment agreement.

[5] On Friday 19 September 2008 Ms Bow arrived at work but the locks had been changed. Ms Bow regarded her employment as terminated.

[6] Ms Bow's last payment of wages was direct credited to her account on 5 September 2008.

### **The merits**

[7] Ms Bow claims she is owed two weeks outstanding wages and holiday pay. In her statement of problem she says "*Outstanding wages owed to ... myself \$1,012.19 wages and \$2,764.56 nett holiday pay*".

[8] Through Mr Ellery, Allflors does not deny that Ms Bow is owed wages and holiday pay. The dispute has been about the quantum.

[9] Having heard from the parties, I determine that Ms Bow is owed arrears of wages in the total gross sum of \$2,340.00 calculated as follows:-

<b>Date</b>	<b>Ordinary Hours</b>	<b>Overtime Hours</b>	<b>Total</b>
Wed 3 Sept	8	1	9
Thurs 4 Sept	8	1	9
Fri 5 Sept	8	1	9
Sat 6 Sept		4	4
Mon 8 Sept	8	1	9
Tues 9 Sept	8	1	9
Weds 10 Sept	8	1	9
Thurs 11 Sept	8	1	9
Fri 12 Sept	8	1	9
Mon 15 Sept	8	1	9
Tues 16 Sept	8	1	9
Weds 17 Sept (sick)	8		8

Thurs 18 Sept (sick)	8		8
<b>Total</b>	<b>96</b>	<b>14</b>	<b>110</b>
	@ \$20.00 per hour	@ \$30.00 per hour	
<b>Gross Owing</b>	<b>\$1,920.00</b>	<b>\$420.00</b>	<b>\$2,340.00</b>

[10] Having heard from the parties, I determine that Ms Bow is owed holiday pay in the total gross sum of \$3,115.67 as follows:-

<b>Month</b>	<b>Gross Wages</b>
November 2007	3,434.00
December 2007	3,611.88
January 2008	3,786.75
February 2008	4,192.63
March 2008	4,288.18
April 2008	4,859.88
May 2008	4,020.51
June 2008	4,415.00
July 2008	5,365.00
August 2008	4,242.00
September 2008	3,480.00
<b>Total Gross Earnings</b>	<b>\$45,695.83</b>
@ 8%	\$3,655.67
Less holidays paid	\$540.00
<b>Total Gross Holiday pay owing</b>	<b>\$3,115.67</b>

[11] Mr Ellery claims Ms Bow damaged a company vehicle and is liable to repay Allflors for unauthorised cell phone calls of \$1,868.46, and the loss of a concrete grinding machine valued at \$2,500.00. These allegations are not established. **There will be no orders in relation to these claims.**

[12] Mr Ellery further counter-claims against Ms Bow for certain items of his personal property. These items include an Avanti mountain bike, furniture, photographs, clothing, and motorcycle gear. I find that such claims for personal property are not founded on an employment contract between the parties and therefore is not within this Authority's jurisdiction. **There will be no orders in relation to these claims.**

[13] Ms Bow's claim for "possible compensation for duress by [Mr Ellery]" is refused. This is not a personal grievance and no compensation is payable in a claim for arrears of wages and holiday pay.

**The determination**

[14] I order Allflors Turangi Limited to pay to Virginia Jane Bow the gross sum of \$2,340.00 as arrears of wages.

[15] I order Allflors Turangi Limited to pay to Virginia Jane Bow the gross sum of \$3,115.67 as holiday pay.

**The costs**

[16] I order Allflors Turangi Limited to pay to Virginia Jane Bow the sum of \$70.00 being reimbursement to her of the lodgement fee on this application.

Leon Robinson  
**Member of Employment Relations Authority**