

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2017] NZERA Auckland 36
5632029

BETWEEN JUAN SANTIAGO DALTON
 Applicant

AND JACK HINGAIA
 Respondent

Member of Authority: Robin Arthur

Representatives: Applicant in person
 None for Respondent

Investigation Meeting: On the papers

Determination: 15 February 2017

DETERMINATION OF THE AUTHORITY

- A. Jack Hingaia must pay Juan Santiago Dalton \$641.43 within 14 days of the date of this determination, comprising the following amounts:**
- (i) \$540.00 as wage arrears; and**
 - (ii) \$25.82 as interest on that amount for the period from 3 March 2016 to 15 February 2017; and**
 - (iii) \$75.61 in reimbursement of the fee paid to lodge his claim in the Authority.**

Employment Relationship Problem

[1] On 3 November 2016 Juan Santiago Dalton lodged an application in the Authority stating he was not paid for four days' work he did for Jack Hingaia between 9 and 19 February 2016. Mr Dalton claimed he was owed for 30 hours work to be paid at \$18 an hour, that is a total of \$540.

[2] Mr Hingaia has not responded to Mr Dalton's application. It has been determined without information or involvement from him.¹ The statement of problem was sent to Mr Hingaia at two email addresses he was known to have used in his dealings with Mr Dalton and also to a residential address given for him. Courier records show the statement was received and signed for at that address. The Authority received no statement in reply.

[3] By Minute on 11 January 2017 the Authority advised the parties it would go ahead and make an order for the claimed \$540 to be paid, with interest, in the absence of any response, denial or challenge from Mr Hingaia. Before doing so, the Authority gave Mr Hingaia a further opportunity to provide any information he wanted taken into account before a decision about such an order was made. The Minute was sent to the two email addresses referred to earlier and to the same residential address. The Minute asked for any response by 19 January however courier records show the Minute was not received and signed for at the residential address until 28 January 2017. A further full fortnight has now passed since the recorded delivery of the Minute. The Authority has still received no communication or information from Mr Hingaia. Meanwhile Mr Dalton, by email to the Authority, confirmed he wanted the Authority to make an order for the money owed to him and that he had not heard from Mr Hingaia about his claim.

[4] In the absence of any response from Mr Hingaia the Authority has accepted Mr Dalton's unchallenged claim for wage arrears.

[5] Under s 131 of the Employment Relations Act 2000 Mr Hingaia is ordered to pay Mr Dalton arrears of \$540 and to make that payment within 14 days of the date of this determination. Mr Dalton is also entitled to an award of interest on the arrears due to him.² He provided a copy of an email he sent Mr Hingaia on 3 March 2016 showing the amount claimed as due then. Interest should be paid for the 349 days from that date to the date of this determination. At the applicable annual rate of five per cent, \$25.82 is the amount of interest due.³

¹ Employment Relations Act 2000, s 174D.

² Employment Relations Act 2000, Schedule 2 clause 11.

³ Judicature (Prescribed Rate of Interest) Order 2011 (SR 2011/177), clause 4.

[6] Mr Hingaia must also reimburse Mr Dalton for the cost of the fee he paid to lodge his application in the Authority, that is \$71.56.

[7] The orders of the Authority made in this determination may be filed in any District Court and are then enforceable in the same manner as an order given by the District Court.⁴

Robin Arthur
Member of the Employment Relations Authority

⁴ Employment Relations Act 2000, s 141.