IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND

I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE

BETWEEN		YOANN DARD
		Applicant
AND		RAJASEKAR CHELLAPPA
		Respondent

Member of Authority:	Anna Fitzgibbon
Representatives:	Applicant in person No participation by or on behalf of the Respondent
Investigation Meeting:	8 January 2020 at Auckland by way of telephone
Oral Determination:	8 January 2020

ORAL DETERMINATION OF THE AUTHORITY

A. **The Respondent, Mr Rajasekar Chellappa owes the Applicant, Mr Yoann Dard arrears of wages in the sum of $398.25 gross.**

B. **Mr Chellappa is to pay Mr Dard the sum of $398.25 gross within 14 days of the date of this determination.**

C. **Mr Chellappa is to pay Mr Dard the filing fee of $71.56 within 14 days of the date of this determination.**

Employment Relationship Problem

[1]   Mr Yoann Dard is a French citizen who is in New Zealand on a working visa. Mr Dard was employed by Mr **Rajasekar** Chellappa to pick kiwi fruit at an orchard in Te Puke. Mr Dard understood he was employed personally by Mr Chellappa.

[2]   Mr Chellappa is a former director of the company Raj Kiwi Limited. Mr Chellappa ceased being a director on 8 August 2019.

[3]   Mr Dard says he is owed wages for work performed by him for Mr Chellappa on 5, 6 and 7 July 2019 for which he has never been paid. Mr Dard says he has requested Mr Chellappa to pay him what he is due but has not been paid.

Non-Appearance of the Respondent

[4]   A statement of problem was filed in the Employment Relations Authority (the Authority) by Mr Dard on 30 October 2019. The statement of problem was served by courier on Mr Chellappa on 5 November 2019. There was no response and no statement in reply was filed.

[5]   Mr Chellappa has communicated with the Authority by way of email and participated in communications concerning the timing of the Investigation Meeting. Today, Authority Officer, Mr Jesse Isaako telephoned Mr Chellappa on the mobile phone number provided by him to the Authority. Mr Chellappa did not reply. Mr Isaako left a voice mail message that the date and time of the Investigation meeting had been communicated to Mr Chellappa and accordingly the investigation meeting was proceeding by telephone today. Mr Chellappa did not make contact with the Authority.

[6]   There has been no participation by or on behalf of Mr Chellappa in the investigation meeting held by telephone today. I am satisfied that Mr Chellappa was aware of the investigation meeting to be held today and that he received notice of the investigation meeting and other correspondence from the Authority. Therefore, I proceeded with the investigation meeting.

Relevant Facts

[7]   Mr Dard was employed by Mr Chellappa to pick kiwi fruit. Mr Dard had been staying at Arthouse Backpackers hostel (the hostel) in Tauranga. Mr Dard was told by the

receptionist at the hostel that Mr Chellappa was looking for workers to pick kiwifruit. Mr Dard and 3 others from the hostel met with Mr Chellappa at his house to discuss the job. Mr Dard was told he would be paid the minimum wage to pick kiwi fruit. Mr Dard was provided with a timesheet and shown by Mr Chellappa how it was to be completed. Mr Chellappa promised to provide Mr Dard with an employment agreement but never did so.

[8]   Mr Chellappa worked for 3 days picking kiwi fruit on 5, 6 and 7 July 2019. On each day he asked Mr Chellappa for his employment agreement. Mr Chellappa did not provide it. Mr Dard felt unable to trust Mr Chellappa and decided to leave.

Attempts to Secure Payment

[9]   After leaving, Mr Dard telephoned Mr Chellappa who told him "he was out of cash" but that he would be paid when he had "availability of cashflow". Mr Chellappa has failed to pay the outstanding wages to Mr Dard.

Order

[10]   Within 14 days of the date of this determination, I order Mr Chellappa to pay Mr Dard the sum of $398.25 gross in outstanding wages.

Costs

[11]   Mr Chellappa is to pay Mr Dard the filing fee of $71.56 within 14 days of the date of this determination.

Anna Fitzgibbon
Member of the Employment Relations Authority