

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 60/10
5282850

BETWEEN

DIANE DAWSON
Applicant

A N D

DEREK QUIGLEY t/a QUIGS
BAKERY
Respondent

Member of Authority: James Crichton

Representatives: Stephanie Moses for Applicant
No appearance for Respondent

Investigation Meeting: 5 March 2010 at Blenheim

Determination: 12 March 2010

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant (Ms Dawson) alleges that she is owed wages from her employment by the respondent (Quigs Bakery) and she seeks recovery. Quigs Bakery does not deny that the money is owed, but says it is in no position to pay.

[2] Ms Dawson seeks recovering a total sum of \$6,276.49 net and, as part of her application to the Authority, she attaches her calculation sheet detailing how that amount was arrived at together with bank statements showing where some payments were received and a succession of weekly wage slip printouts evidencing wages due and owing but not paid.

[3] It became clear at the investigation meeting that the reason so much money was owed without being picked up by Ms Dawson was that the wages were paid into a mortgage account and Ms Dawson was unaware of the non-payment until the bank

complained of insufficient funds to meet mortgage obligations. Mr Quigley was confronted about the deficit but, according to Ms Dawson, took no steps.

[4] Quigs Bakery has ceased trading and there are no surplus funds. The principal of the firm was Derek Quigley and his statement in reply indicates that, in addition to the business having ceased trading, his home has now been sold at the direction of his bank and there is still money owing to the bank after the crediting of the net sale proceeds. The statement in reply also contends that there is no other income or assets to meet the wages obligation to Ms Dawson although the claim itself is not denied.

[5] Mr Quigley did not attend the investigation meeting. I am satisfied he was properly notified and that his absence was deliberate rather than inadvertent. I determined to proceed with the short investigation. Ms Dawson provided me with ample evidence of the factual position.

Determination

[6] Ms Dawson has satisfied me that she is owed the sum claimed. This is a large sum of wages to be owed to a worker and despite Mr Quigley's impecunious position, he must accept that the wages owed to Ms Dawson are his obligation to pay as a matter of priority.

[7] Mr Quigley is directed to pay to Ms Dawson the sum of \$6,276.49 net. Given Mr Quigley's financial position, time to pay is appropriate. Mr Quigley is to enter into an arrangement with Ms Dawson for the amount to be paid off on a time basis.

James Crichton
Member of the Employment Relations Authority