

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2018] NZERA Auckland 268
3032273

BETWEEN

AN QUOC DO
Applicant

AND

BF7 TRADING LIMITED
Respondent

Member of Authority: Robin Arthur
Representatives: Applicant in person
Roy Bishop, Advocate for the Respondent
Investigation Meeting: By telephone conference on 22 August 2018
Determination: 23 August 2018

DETERMINATION OF THE AUTHORITY

- A. BF7 Trading Limited must pay An Quoc Do the following sums, less any applicable tax, by no later than Thursday, 30 August 2018:**
- (i) \$1,304.10 as arrears of wages; and**
 - (ii) \$104.33 as holiday pay due on that amount; and**
 - (iii) \$71.56 in reimbursement of the fee Mr Do paid to lodge his application in the Authority.**
- B. In the event that the amounts due are not paid by the due date, leave is reserved for Mr Do to apply to the Authority for a compliance order and for a penalty to be imposed under the Wages Protection Act 1983.**

Employment Relationship Problem

[1] An Quoc Do, also known as Brian Do, sought an order requiring BF7 Trading Limited (BF7) to pay wages due to him for work he did in April 2018. BF7 operates a labour hire and recruitment business under the trading name of Filled Roles.

[2] By telephone conference yesterday Filled Roles' general manager Roy Bishop confirmed BF7 had employed Mr Do to work for a client. Mr Do provided copies of BF7's invoices to that client. The invoices showed the hours he had worked. He also provided copies of bank statements of the client that showed it had paid BF7's invoices. In short, the client paid the money to BF7 to pay Mr Do for his work.

[3] Mr Bishop confirmed there was no dispute about the hours worked and the wages due to Mr Do. In communication with an Authority Officer earlier in August Mr Bishop had advised that payments due to Mr Do would be paid. By the date of yesterday's conference call, the money had not been paid.

[4] Mr Bishop accepted my proposal that the Authority make an order now for payment within seven days of the amounts due, with holiday pay and reimbursement of the filing fee Mr Do had paid to make his application to the Authority. Those orders are set out at the head of this determination.

[5] Leave is reserved for Mr Do to revert to the Authority for further orders in the event that BF7 does not pay the amounts due by the date set in this determination. If that happens Mr Do has leave to apply for a compliance order and for a penalty under the Wages Protection Act 1983 for failure to pay wages when due.

Robin Arthur
Member of the Employment Relations Authority