

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN	Michael Edgar (Applicant)
AND	RA Group Limited trading as The Auckland Times (Respondent)
REPRESENTATIVES	Mr Edgar In Person No appearance for Respondent
MEMBER OF AUTHORITY	Vicki Campbell
INVESTIGATION MEETING	27 June 2006
DATE OF DETERMINATION	28 June 2006

DETERMINATION OF THE AUTHORITY

- [1] No statement in reply has been received from the respondent. After reviewing the file I am satisfied the respondent received the statement of problem. After the initial statement of problem being served on the respondent, no further documents were served at the companies registered office as a result of the courier company being advised the respondent had moved.
- [2] On 27 April 2006 two copies of the notice of investigation meeting were couriered to the the applicant together with instructions to personally serve the notice of investigation meeting on the respondent. Mr Edgar advised the Authority that at 11.30am on 15 May 2006 he personally served the notice of investigation meeting on the respondent at the registered office of the company. I am satisfied the respondents have been served notice of the investigation meeting.
- [3] The investigation meeting commenced at 11.00am on 27 June 2006. The respondent did not make an appearance at that time. The notice setting down the investigation meeting sets out the consequences of non-attendance. I adjourned the meeting briefly at 11.05am to allow the respondent the opportunity to appear. The respondent did not appear.
- [4] I reconvened the investigation meeting at about 11.20am and considered the matter in terms of Clause 12 of Schedule 2 of the Act which empowers the Authority to proceed to act fully in a matter if a party fails to attend or be represented without good cause.

- [5] I did not consider that the respondent has shown "good cause" for its failure to attend the investigation meeting. Accordingly, I proceeded to act as fully in the matter as if the respondent had attended.
- [6] Mr Edgar commenced employment with RA Group Limited trading as The Auckland Times on 9 January 2006. He reported to Mr Raiyas Ali the managing director. There is no written employment agreement between the parties. Mr Edgar says that part of the agreed terms of his employment was the payment of a retainer of \$2,000 per month plus 10% commission on sales.
- [7] During his employment Mr Edgar made enquiries about the written employment agreement and at one stage was referred to Mr Ali's lawyer. Mr Edgar made enquiries with the lawyer's office and was advised that the firm had not been instructed to prepare an employment agreement in his name.
- [8] Mr Edgar says that on 23 January 2006 he made further enquiries of his employer for the written employment agreement, but to no avail. He left his employment on 29 January 2006.
- [9] On 16 February 2006 Mr Edgar wrote to Mr Raiyas Ali and requested payment of the retainer plus commission earned during his first month's employment.
- [10] No payment was received. Mr Edgar then invited Mr Ali to attempt to resolve the outstanding payment issue in mediation.
- [11] Mr Edgar claims his outstanding retainer for the period 8 January to 29 January 2006 inclusive plus 10% commission on sales of \$1500 exclusive of GST. I am satisfied the sum of \$1,650 is due.

RA Group Limited t/a The Auckland Times, is ordered, pursuant to section 131(1) of the Employment Relations Act 2000 to pay to Mr Edgar the sum of \$1,650.00 gross. This amount is to be paid within 28 days of the date of this determination.

Costs

- [1] This application required a filing fee of \$70.00. It is appropriate that the respondent reimburse the fee.

RA Group Limited t/a The Auckland Times is ordered to pay to Mr Edgar the sum of \$70.00, within 28 days of the date of this determination.

