

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

Determination Number:  
WA 65/08  
File Number: 5117499

BETWEEN SHANE ROBERT JAMES  
HINDLEY  
Applicant  
AND WILLIAM (BILL) CONWAY  
Respondent

Member of Authority: P R Stapp  
Representatives: The Applicant in Person  
No Appearance for Respondent  
Investigation Meeting: 12 May 2008 at New Plymouth  
Determination: 12 May 2008

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Mr Hindley has claimed he is owed three weeks pay for holidays that his employer, William (Bill) Conway has not paid.

[2] There has been no reply from Mr Conway, despite being put on notice of the employment relationship problem.

**Issues**

[3] Who employed Mr Hindley? How much was he paid and is he owed any holiday pay?

**Non Appearance of the Respondent, Mr Conway**

[4] The respondent did not appear at the Authority's investigation meeting. I am satisfied he was put on notice of the statement of problem and the notice of the investigation meeting. They

were delivered by courier and there is a notice of delivery and receipt involving “Bill C”. There has been no reply. Further Mr Conway was ordered by me to produce wage holiday and time records and employment agreement for Mr Hindley and the order was included with the notice for the investigation meeting. There has been no reply and no compliance.

[5] Mr Conway was given time to appear before I commenced the investigation meeting. The support officer checked by telephoned and it was clear he would not be attending. I am satisfied that there is no good cause for Mr Conway’s absence at the Authority’s investigation meeting. Therefore, I have proceeded with my investigation meeting to act fully in the matter as if he had duly attended or been present.

### **The Facts**

[6] Mr Hindley says he was employed by Mr Conway, who traded as “Cash for Scrap” in New Plymouth, and he says he started work for Mr Conway on 1 February 2006. He says he held the position of yard manager and was required to work 45 hours per week for that pay. He says he was told by Mr Conway he wouldn’t need an employment agreement. I accept Mr Hindley’s evidence considering Mr Conway has failed to reply to the statement of problem and failed to provide wage holiday and time records and failed to provide an employment agreement for Mr Hindley. I accept that Mr Hindley had no knowledge of any company that could have employed him. Mr Conway was not present to challenge or rebut Mr Hindley’s evidence.

[7] Mr Hindley says he left his employment on 11 February 2008 and was not paid his holiday pay owing. At no time was Mr Hindley given a pay slip and when he left there was no holiday reconciliation provided. He says he attempted to get paid by contacting Mr Conway and Mr Conway’s accountant, but without any success. I accept Mr Hindley’s evidence because it was not challenged. Indeed he supported his evidence with his relevant bank statements and a diary record of the days leave taken after his first year of service (2006-2007).

[8] Mr Hindley told me he was paid \$800 cash in the hand per week. Regular payments of \$800 were made to Mr Hindley’s bank account. I find that Mr Conway has not paid Mr Hindley three weeks holiday pay that became due on 1 February 2008 for the second year of service (2007-2008). Mr Hindley is owed \$2,400 nett holiday pay for three weeks holidays not paid when he finished his employment.

[9] There were no wages time and holiday records.

**Determination**

[10] Shane Robert James Hindley is owed \$2,400 nett holiday pay for leave not taken during his employment with William Conway trading as Cash for Scrap at New Plymouth.

**Orders of the Authority**

[11] I order that William (Bill) Conway trading as Cash for Scrap at New Plymouth pay Shane Robert James Hindley the sum of \$2,400 nett outstanding holiday pay for leave not taken.

[12] William (Bill) Conway is also to pay Mr Hindley the filing fee of \$70.

P R Stapp  
Member of the Employment Relations Authority