

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2017] NZERA Auckland 259
3010233

BETWEEN	RAGASREERAM JANGATI Applicant
AND	SANTHOSH MUNIGELA Respondent

Member of Authority:	Vicki Campbell
Representatives:	Pradeep Dubbaka for Applicant Paramjeet Rana for Respondent
Investigation Meeting:	30 August 2017
Determination:	30 August 2017

**DETERMINATION OF THE
EMPLOYMENT RELATIONS AUTHORITY**

- A. Mr Jangati has not established to my satisfaction that he is owed outstanding wages.**
- B. Mr Munigela is ordered to pay to Mr Jangati the sum of \$462.38 within seven (7) days of the date of this determination.**
- C. Costs are reserved.**

Employment relationship problem

[1] Mr Ragasreeram Jangati claims he did not receive all wages and holiday pay owed to him during his employment with Mr Santhosh Munigela who operated the business known as Challenge Killarney. Mr Munigela denies any payments remain outstanding to Mr Jangati.

[2] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has not recorded all the evidence received from Mr Jangati and Challenge Killarney but has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter, and specified orders made as a result.

[3] This determination confirms my oral indication of preliminary findings made at the end of the investigation meeting.

Unpaid wages

[4] Mr Munigela operates a service station business referred to as Challenge, Killarney Road in Hamilton.

[5] Mr Jangati claims he worked 35 hours over five days each week Monday to Friday inclusive. He told me he started work at 6 am each day and finished at or around 1 pm. Mr Jangati has left New Zealand and is living in India. He attended the investigation meeting by telephone.

[6] Mr Jangati says he was paid correctly for 20 hours of work each week but that he was paid \$10.00 cash for 15 hours each week when he should have been paid \$15.25 for each hour with PAYE deducted.

[7] Mr Munigela told me Mr Jangati worked 20 hours each week over the five days starting at 6 am and finishing at 10 am. Mr Munigela's evidence was supported by Mr Anil Mushke who confirmed he worked from 4 pm each day and finished at 8 pm and that Mr Jangati worked from 6 am to 10 am.

[8] On behalf of Mr Jangati, Mr Dubbaka invited me to interview a further witness who, he said, would confirm Mr Jangati's finishing time and that Mr Mushke's hours of work started at 1 pm when Mr Jangati finished and not 4 pm thereby bringing Mr Mushke's evidence into question.

[9] Mr Tiru Gaayan attended the investigation meeting by telephone. He was unable to confirm Mr Jangati's finishing time, only that he worked on the morning shift. Mr Gaayan was not able to provide me with any evidence that Mr Mushke's starting time coincided with Mr Jangati's finishing time.

[10] Mr Munigela has provided the Authority with IRD records which show Mr Jangati was paid 20 hours each week at the rate of \$15.25 for each hour. He also provided evidence that Mr Jangati's pay was paid each week by direct credit to his bank account. This is in contrast to Mr Jangati's evidence that he was only paid by cash and not direct credit.

[11] In arrears of wages claims the onus is on the applicant to establish his claim to my satisfaction. On the basis of the evidence before me I am not satisfied Mr Jangati has established that any monies remain outstanding for hours worked.

Holiday Pay

[12] At the investigation meeting Mr Munigela confirmed that he had not paid Mr Jangati's holiday pay. I have calculated the holiday pay owing to Mr Jangati as being \$462.38. This amount is 8% of the gross earnings set out in the IRD records.

[13] Mr Munigela is ordered to pay to Mr Jangati the sum of \$462.38 within seven (7) days of the date of this determination.

Other remedies

[14] In his statement of problem Mr Jangati sought the payment of wages for a period of two years from the ending of his employment relationship. As discussed with Mr Jangati during the investigation meeting there is no basis in law for an award of 2 years wages.

Costs

[15] Costs are reserved. The parties are invited to resolve the matter. If they are unable to do so Mr Munigela shall have 28 days from the date of this determination in which to file and serve a memorandum on the matter. Mr Jangati shall have a further 14 days in which to file and serve a memorandum in reply. All submissions must include a breakdown of how and when the costs were incurred and be accompanied by supporting evidence.

[16] The parties could expect the Authority to determine costs, if asked to do so, on its usual 'daily tariff' basis unless particular circumstances or factors require an adjustment upwards or downwards.

Vicki Campbell
Member of the Employment Relations Authority