

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2015] NZERA Auckland 233
5565752

BETWEEN

KEVIN NOEL JARDEN
Applicant

A N D

COLEMAN COMMERCIAL
ALUMINIUM
INSTALLATIONS LIMITED
Respondent

Member of Authority: Rachel Larmer

Representatives: Applicant in person
No appearance by Respondent

Investigation Meeting: 06 August 2015 at Auckland

Written Record of Oral Determination: 06 August 2015

DETERMINATION OF THE EMPLOYMENT RELATIONS AUTHORITY

No appearance by Respondent

[1] Coleman Commercial Aluminium Installations Limited (the Respondent) did not file a Statement in Reply. Nor has it applied for leave to file a Statement in Reply out of time. The Respondent failed to comply with the Authority's direction to provide Mr Jarden's wage and time records.

[2] The parties were directed to attend mediation by 5 August 2015. That has not occurred. The Authority was advised by Mediation Services that the Respondent did not respond to numerous attempts by telephone and email to arrange a mediation date.

[3] The Respondent did not appear at the investigation meeting today and has not communicated with the Authority at all.

Service of Statement of Problem & Notice of Investigation Meeting

[4] I am satisfied that the Statement of Problem was served on the Respondent on 08 July 2015 by track and trace courier and was signed for by Kelly Paterson. I am also satisfied that the Notice of Investigation Meeting was served on the Respondent by track and trace Courier Post on 28 July 2015 and was also signed for by Kelly Paterson.

Employment Relationship Problem

[5] Mr Jarden claims that the Respondent:

- a. deducted child support, PAYE and Kiwisaver from his wages but did not remit these amounts to the Inland Revenue Department (IRD);
- b. has now repaid IRD Mr Jarden's PAYE and KiwiSaver deductions but has not remitted his outstanding child support payments to IRD leaving a child support arrears of \$3,104.69;
- c. should reimburse him \$1,003 for late payment penalties he has incurred for the child support that it deducted from his wages but did not remit to IRD;
- d. owes him \$1,998.87 in wage arrears and unpaid holiday pay.

[6] Mr Jarden provided an email to the Authority from the Respondent's sole director Mr Paul Coleman dated 28 April 2015 which acknowledged Mr Jarden was owed \$1,998.87 wages arrears and unpaid holiday pay. Mr Jarden says this amount has still not been paid.

[7] Mr Jarden's wage arrears and unpaid holiday pay claim succeeds. The Respondent is ordered to pay Mr Jarden \$1,998.87 (being \$673.72 one week's unpaid wages plus \$1,325.15 unpaid holiday pay).

[8] Mr Jarden also presented a child support statement which showed late payment penalties of \$1,003 has been imposed on him because of the Respondent's failure to remit the child support deductions to IRD. The Respondent is ordered to reimburse Mr Jarden \$1,003 for the penalties he has incurred.

[9] The Respondent is also ordered to pay Mr Jarden the \$3,104.69 being the shortfall between the child support deductions it made from his wages and the amount it actually remitted to IRD.

Orders

[10] Within 28 days of the date of this determination the Respondent is ordered to pay Mr Jarden \$6,178.12 consisting of:

- (a) \$673.72 unpaid wages;
- (b) \$1,325.15 unpaid holiday pay;
- (c) \$1,003 child support penalties incurred;
- (d) \$3,104.69 child support arrears (this was deducted from Mr Jarden's wages but not remitted to IRD);
- (e) \$71.56 to reimburse Mr Jarden's filing fee.

Rachel Larmer
Member of the Employment Relations Authority