

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 149/09  
5154503

BETWEEN

Jason Englis Keoghan  
Applicant

AND

Northland Motor Holdings  
Limited  
Respondent

Member of Authority: Yvonne Oldfield

Representatives: Applicant in person  
No appearance for Respondent

Investigation Meeting: 8 May 2009

Determination: 12 May 2009

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Mr Keoghan comes to the Authority seeking an order for payment of outstanding holiday pay. That is the only issue here.

[2] The investigation meeting proceeded in the absence of the respondent. The respondent's failure to attend did not come as a surprise. No statement of reply was received and the Authority Support Officer received advice from the respondent that it did not intend to defend the proceedings. In these circumstances, the matter has been determined on the basis of evidence from Mr Keoghan including correspondence to him from a Labour Inspector who assisted him in establishing a figure for the outstanding holiday pay.

[3] Mr Keoghan was employed by the respondent from 1 October 2007 until 31 October 2008 and prior to that (from 29 January 2003) by the previous owner of the business (a car dealership.) When the respondent purchased the business in 2007 it

took on the previous owner's liabilities in respect of holiday pay owed to Mr Keoghan and other staff who were re-employed at that time. Mr Keoghan's employment was terminated in anticipation of the respondent's business being sold again (as indeed happened.) The respondent has not traded since and is expected to go into liquidation.

[4] At the time his employment ended, Mr Keoghan received all monies owing to him except his holiday pay. He reports that he was told that he would be paid this "in due course." However, despite reminders from him, no payment has been forthcoming.

[5] Mr Keoghan showed me his final pay slip which recorded his outstanding holiday pay as 93.5 hours (11.75 days.) His earnings from the first pay period after his anniversary were \$35,190.21. He also showed me a schedule drawn up by the Labour Inspector which showed his average weekly earnings for the period 24 October 2007 to 29 October 2008 to be \$865.00 (more than his ordinary weekly pay.) The schedule summarised his outstanding entitlements as follows:

Total annual leave due 11.75 days @ relevant daily pay of \$173.00.	\$2,032.75
8% of total gross earnings for part year (08/10/08-29/10/08)	\$2,815.22
<b>Total balance owed</b>	<b>\$4,847.97</b>

[6] Finally Mr Keoghan showed me a letter from the Labour Inspector to him which advised that the respondent had confirmed to the Inspector that the quantum for the outstanding holiday pay was not disputed.

[7] I am satisfied that the respondent owes Mr Keoghan the sum claimed. The respondent is ordered to pay to Mr Keoghan the sum of \$4,847.97 gross holiday pay.

Yvonne Oldfield

Member of the Employment Relations Authority