

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

[2020] NZERA 53
3081515

BETWEEN KARAN KIKANI
 Applicant

AND WEBCOMMUNICATIONS (NZ)
 LIMITED
 Respondent

Member of Authority: Anna Fitzgibbon

Representatives: Applicant in person
 No participation by or on behalf of the Respondent

Investigation Meeting: 4 February 2020 at Auckland

Date of Determination: 5 February 2020

ORAL DETERMINATION OF THE AUTHORITY

- A. The respondent, Webcommunications (NZ) Limited (Webcommunications), owes the applicant, Mr Karan Kikani, arrears of wages in the sum of \$5,766.50 gross.**
- B. Webcommunications is to pay Mr Kikani the sum of \$5,766.50 within 14 days of the date of this determination.**
- C. Webcommunications, owes Mr Kikani, holiday pay amounting to \$461.32 gross.**
- D. Webcommunications is to pay Mr Kikani the sum of \$461.32 gross within 14 days of the date of this determination.**
- E. Webcommunications is to pay Mr Kikani the filing fee of \$71.56 within 14 days of this determination.**

Employment Relationship Problem

[1] Webcommunications is a web development company. Mr Anthony Shalesh Shankar is the sole director. His brother, Mr Samuel Hirdesh Shankar is the sole shareholder.

[2] Mr Karan Kikani was employed by Webcommunications as a web developer but he resigned from his employment when he was not paid wages owing to him.

[3] Mr Kikani says he is owed wages for work performed by him from 8 June 2019 until 24 August 2019 together with holiday pay. Mr Kikani says he has asked for payment on numerous occasions but has not been paid. Mr Kikani seeks payment by Webcommunications of outstanding wages and holiday pay owing to him.

Non-appearance of the respondent

[4] A statement of problem was filed in the Employment Relations Authority (the Authority) by Mr Kikani on 5 December 2019. The statement of problem was served at the registered office of Webcommunications on 20 December 2019, and signed for by S SUZZANA. A follow up letter was sent to the registered office of Webcommunications on 16 January 2020 but subsequently returned undelivered. The notice of investigation meeting was sent to the registered office of Webcommunications on 21 January 2020. These communications were returned undelivered. Emails were sent by the Authority to email addresses of Webcommunications obtained from the Companies office and from the website of Webcommunications. The emails attached the statement of problem and notice of investigation meeting. As there had been no response by or on behalf of Webcommunications, on 31 January 2020, all documents, including the notice of investigation meeting were sent again by the Authority to the registered office, the place of business of Webcommunications at 17 Putney Way, Manukau and to the residential address of the director.

[5] The Authority received an email on 3 February 2020 from Shanka Webcomnz as follows:

“...Hi there thanks for the email with your information We haven't received any documents that was sent from you Was just wondering if 17 putney way ..m.central building was the address that this was delivered to Where we are making all attempts to resolve this amicably please we need to see what's the actual story Can you please advise us what is the some of money that is disputed and not paid? Can we be given till Monday next week to resolve this

We will however abide by any decision that the authority make Kind regards Shankar Webcomnz

[6] A response from the Authority was sent by email confirming the date, time and place of the investigation meeting and that the meeting would be proceeding.

[7] There was no appearance on behalf of Webcommunications at the investigation meeting.

[8] I am satisfied that Webcommunications was aware of the investigation meeting to be held and that it received notice of the investigation meeting and other correspondence from the Authority. Therefore, I proceeded with the investigation meeting.

Investigation meeting

[9] An investigation meeting was held in Auckland on 4 February 2020. Mr Kikani attended the Authority's offices and answered questions from the Authority. There was no appearance by or on behalf of Webcommunications.

[10] As permitted under s174E of the Employment Relations Act 2000, this determination does not set out all the evidence or submissions received. The determination states findings of fact and law and makes conclusions on issues necessary to dispose of the matter.

Relevant facts

[11] Mr Kikani is a migrant from India who came to New Zealand in 2017 to undertake a course of study. In May 2019, Mr Kikani obtained a Graduate Diploma in Information Technology from Otago Polytechnic Institute in Auckland. Mr Kikani saw an advertisement on Facebook placed by Webcommunications seeking a Web developer. In July 2019, Mr Kikani attended an interview at Webcommunications' place of business located at 17 Putney Way, Manukau. The web developer position was discussed and Mr Kikani was offered the position.

[12] Mr Kikani was employed by Webcommunications in the role of web developer pursuant to a written individual employment agreement (the employment agreement) signed respectively by Mr Semual Shankar on behalf of Webcommunications on 1 August 2019 and by the applicant, Mr Kikani, on 2 August 2019.

[13] Mr Kikani worked for approximately seven weeks for Webcommunications and during that time was not paid his wages. Mr Kikani requested payment of his wages on numerous occasions but was not paid. Mr Kikani decided to resign because of the failure of Webcommunications to pay him for the work that he was performing. The Authority was provided with copies of emails and text messages communicating Mr Kikani's requests to be paid and his resignation.

[14] After leaving Webcommunications, Mr Kikani spoke to Mr Shankar about the outstanding wages and was told Webcommunications did not have the money to pay him.

Order

[15] Within 14 days of the date of this determination, I order Webcommunications to pay Mr Kikani the sum of \$5,766.50 gross in outstanding wages together with holiday pay calculated at the rate of eight per cent per annum, totalling \$461.32.

Costs

[16] Webcommunications is to pay Mr Kikani the filing fee of \$71.56 within 14 days of the date of this determination.

Anna Fitzgibbon
Member of the Employment Relations Authority