

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2017] NZERA Auckland 293  
3000124

BETWEEN                      A LABOUR INSPECTOR OF  
   THE MINISTRY OF  
   BUSINESS INNOVATION  
   AND EMPLOYMENT  
   Applicant

A N D                              JH DREAMZ LIMITED  
   Respondent

Member of Authority:      T G Tetitaha

Representatives:              A Skadiang, Counsel for Applicant  
   S Beacham and G Tayler, for Respondent

Date of Determination:      22 September 2017

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**CONSENT DETERMINATION OF THE AUTHORITY**

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- [1] By Minute dated 12 July 2017, the Authority directed the parties to consider whether or not there was a possibility of settling this matter.
- [2] The parties have reached agreement as to the nature of the breaches of employment standards, the wage arrears due and owing and quantum of penalty.
- [3] The parties request the Authority issue a consent determination that records:
- (a) The Respondent accepts it failed to keep complete and accurate wage and time records as required by s 8A(1) of the Minimum Wage Act 1983.
  - (b) The Respondent accepts it failed to keep holiday and leave records in accordance with s 75 of the Holidays Act 2003.

**Minimum Wage**

- [4] The Respondent accepts it:

- (a) employed Vipin Kakran from 1 January 2015 to 21 October 2015; and
- (b) has breached employment standards by failing to pay minimum wages and holiday pay to Vipin Kakran.

[5] The failure to pay minimum wages is on the basis that the Respondent paid Vipin Kakran for 30 hours of work per week and that the parties agree Vipin Kakran worked 40 hours per week from 1 January 2015 and 21 October 2015. The arrears owing are as follows:

Wages	\$6131.00
Holiday pay	\$490.38
<b>Total outstanding</b>	<b>\$6621.38 (gross)</b>

### **Penalties**

- [6] The Applicant withdraws its penalty claims in relation to:
- (a) failing to pay holiday pay on termination of employment per s 27 of the Holidays Act 2003;
  - (b) failing to pay for a public holiday that would otherwise be a working day per s 49 of the Holidays Act 2003;
  - (c) failing to pay time and a half for hours worked on a public holiday per s 50 of the Holidays Act 2003;
  - (d) failing to provide alternative holidays per s 56 of the Holidays Act 2003;
  - (e) failing to pay alternative holidays in the pay that relates to the employee's final period of employment per s 60 of the Holidays Act 2003.
- [7] The parties have reached a settlement of the remaining applications for penalties in respect of:
- (a) Failing to pay statutory minimum wages as required by s 6 of the Minimum Wage Act 1983
  - (b) Failing to keep a compliant wage and time record under s 8A(1) of the Minimum Wage Act 1983 and;

- (c) Failing to keep a compliant holiday and leave record under s 75 of the Holidays Act 2003.

### **Orders**

#### ***Minimum Wage***

- [8] By consent there is an order \$6,621.38 will be paid by the Respondent into the MBIE Trust Account for payment to Mr Kakran. The arrears will be paid in 2 instalments of \$3,310 (gross) on 25 September 2017 and 25 October 2017.
- [9] If the Respondent defaults on any payment due under the agreement to pay in instalments the balance is immediately due.

#### ***Penalties***

- [10] By consent the Authority orders the payment of penalties by the respondent to the Crown in the sum of \$1000 per application. The Respondent is to pay the penalties to the Authority, for payment to the Crown bank account in three instalments of \$1000, to be paid on 1 November 2017, 1 December 2017 and 1 January 2018.
- [11] The parties do not seek non-publication orders with respect to the terms or fact of settlement.
- [12] This determination is enforceable under s.137(1)(b) of the Employment Relations Act 2000.

**T G Tetitaha**  
**Member of the Employment Relations Authority**