

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 126/08
5123880

BETWEEN Labour Inspector
 Applicant

AND Mammon Investments (2006)
 Limited
 Respondent

Member of Authority: Philip Cheyne

Representatives: Kim Baldwin (Labour Inspector) for Applicant
 No appearance for Respondent

Investigation Meeting: 19th of August 2008 in Christchurch

Determination: 25th of August 2008

DETERMINATION OF THE AUTHORITY

[1] By lodging a statement of problem the Labour Inspector seeks to recover for the use of several named employees arrears of wages pursuant to the Minimum Wages Act 1983 and arrears of holiday pay pursuant to the Holidays Act 2003. The respondent has failed to lodge a statement in reply.

[2] At the investigation meeting there was no appearance for the respondent. I am satisfied that the statement of problem and notice of investigation meeting were served on the respondent. There being no good reason for the respondent's non-appearance I decided to proceed with the investigation meeting.

Arrears

[3] After hearing from the Labour Inspector I am satisfied that there has been a failure to pay wages and holiday pay as alleged and that there should be orders as sought, subject to an adjustment to the claim because part payment was received on 12 August 2008.

[4] Mammon Investments (2006) Limited is ordered to pay to the Labour Inspector the sum of \$640.82 for the use of Brian Wyatt (\$107.27), Leslie Ting (\$228.52) and Deborah Andrews (\$305.82), being arrears of wages and/or holiday pay.

[5] Mammon Investments (2006) Limited is ordered to pay interest on \$640.82 for the use of the named employees at the rate of 9% per annum commencing on 20 August 2007 until the arrears are paid in full.

Penalties

[6] Various breaches of relevant statutory provisions have occurred by the respondent's failure to pay these arrears and its failure to produce time, wages and holidays records. Belatedly, the respondent has gone some way towards meeting its obligations by making the part payment mentioned above. I will adjourn the penalty applications for one month to give the respondent an opportunity to complete payment of the arrears. If payment has not been received in full by the Labour Inspector by 22 September 2008 I will issue a further determination and impose penalties on the respondent. There will be two aspects to consider: first, the failure to pay wages and holiday pay to these employees must be seen as a serious breach; secondly, the respondent breached statutory obligations to provide records to the Labour Inspector who is charged with ensuring compliance with various statutory minima. Viewed as a whole, a significant penalty may be required.

Costs

[7] The respondent is to pay to the Labour Inspector the sum of \$70.00 being the lodgement fee for this application.

Philip Cheyne
Member of the Employment Relations Authority