

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 329/08
5116697

BETWEEN SHRETHA LAXMAN-
PRASAD
Applicant

AND NJOY LIMITED T/A NINAS
RESTAURANT
Respondent

Member of Authority: Marija Urlich

Representatives: In person, for Applicant
Tim Higgins, director of Respondent

Investigation Meeting: 8 May and 26 June 2008

Further information
received: 5 June, 11 June, 23, 24 and 27 July 2008

Determination: 18 September 2008

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Mr Laxman-Prasad was employed by Njoy until he tendered his resignation, with two weeks notice, on 23 October 2007. He says he is owed 14 days pay totalling \$1792 (gross).

[2] Njoy says there are no outstanding wages for Mr Laxman-Prasad.

The investigation

[3] The investigation of this employment relationship has taken a long time. This is in part because of delays in Mr Laxman-Prasad quantifying his claim and providing evidence in support of that claim but also, and significantly, the ongoing failure of the

Njoy to provide wage and time records and meaningful responses to Mr Laxman-Prasad's claims and the Authority's requests for information.

[4] The last correspondence received from Njoy is dated 27 July 2008 and advises that it intends to instruct a lawyer in relation to these proceedings. The correspondence goes on to make allegations against Mr Laxman-Prasad and the Authority. Nothing further has been received from Njoy. Njoy has had a fair opportunity to instruct counsel, to provide relevant information and respond to the material before the Authority.

Are any wages outstanding?

[5] Mr Laxman Prasad says the period of claim falls from 14 October to 31 October 2007. He says his last working day was either 26 or 27 October 2007 when he went on sick leave due to a work related accident. In support of his claim he has provided bank statements, medical certificates and ACC correspondence.

[6] Njoy vehemently contests the injury suffered by Mr Laxman-Prasad was work-related. The reason why is unclear. It appears on the information received by me from ACC that Njoy has failed to comply with its obligations to provide wage records. This is consistent with Njoy's failure to provide wage and time records to the Authority.

[7] I am satisfied that Mr Laxman-Prasad has not received his final two week pay and that sum is due and owing. I am satisfied that Mr Laxman-Prasad has not received the three days sick leave to which he is entitled and that sum is due and owing.

Orders

[8] Njoy Limited is to pay Mr Laxman-Prasad outstanding wages of \$1792 (gross).

[9] Njoy Limited is to pay interest on that sum at the rate of 10%, the interest to run from date of determination (18 September 2008) until the above amount is paid in full.

Costs

[10] Mr Laxman-Prasad seeks the filing fee of \$70. Njoy Limited is to pay Mr Laxman-Prasad the sum of \$70. The other reimbursement payments sought by Mr Laxman-Prasad fall outside this jurisdiction.

Marija Urlich

Member of the Employment Relations Authority