

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 146/09  
5156154

BETWEEN                      TREVOR LONG  
                                         Applicant

AND                              LAVISH KITCHEN LIMITED  
                                         Respondent

Member of Authority:      R A Monaghan

Representatives:            T Long in Person  
                                         No appearance for Respondent

Investigation Meeting:      11 May 2009

Determination:              11 May 2009

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] Trevor Long seeks the payment of unpaid wages from his former employer, Lavish Kitchen Limited (“LKL”).

**Preliminary matter**

[2] LKL did not file a statement in reply, and the Authority was unable to make contact with it at the telephone numbers supplied. An attempt was made to serve the documents at its registered address, also being the registered address of its director and shareholder Wendy Sutherland, but those documents were returned to the Authority. However I am satisfied that the statement of problem and notice of investigation meeting were served on the company at its business premises.

[3] No reason has been given for the failure to attend or be represented at the investigation meeting. Mr Long said that, while on his way to the investigation

meeting, he saw Ms Sutherland at the business premises. The Authority again sought to contact Ms Sutherland or LKL at the numbers given, but was unable to do so.

[4] Since LKL has failed to attend the investigation meeting and has not shown good cause for the failure, I proceed under clause 12, Schedule 2 of the Employment Relations Act 2000 to act as fully as if LKL had attended or been represented at the meeting.

### **Claim for unpaid wages**

[5] LKL employed Mr Long as a full time chef, commencing on 22 December 2008. The hours of work were to be 40 per week, worked on Monday – Friday (inclusive). The rate of pay was \$19.50 per hour. Payment was to be made weekly, on a Friday.

[6] On Saturday 17 January 2009 Mr Long gave one week's notice of his resignation, because of the unreliability of his payments to that date. He worked on 19 and 20 January, before Ms Sutherland advised him that she could not afford for him to work to the end of the notice period and his employment ended early by agreement.

[7] Mr Long was not paid for the week ending 16 January 2009, or for 19 and 20 January 2009. Subsequent requests for payment have been met variously with promises to pay or promises to pay when funds were available. Two part payments of \$70 and \$180 have been made.

[8] Accordingly Mr Long seeks payment calculated as follows:

$$56 \text{ hours} \times \$19.50/\text{hour} = \$1,092 \text{ (gross), less } \$250 \text{ (nett).}$$

[9] LKL is ordered to pay to Mr Long the nett equivalent of \$1,092, less \$250.

[10] Interest is to be paid on the outstanding sum at the rate of 3% per annum from 20 January 2009 to the date of payment.

[11] Payment of the above sums is to be made within 7 days of the date of this determination.

**Costs**

[12] LKL is further ordered to pay to Mr Long the sum of \$70 in reimbursement of the Authority's filing fee.

R A Monaghan

Member of the Employment Relations Authority