

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 125/10
5163603

BETWEEN POIAKI MANAVESE
Applicant

AND AUCKLAND WOOD WASTE
REMOVALS LIMITED
Respondent

Member of Authority: Dzintra King
Representatives: Nyra Marshall, Counsel for Applicant
 No appearance for Respondent
Investigation Meeting: 16 March 2010
Determination: 17 March 2010

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The applicant, Mr Poiaki Manavese says he has been unjustifiably dismissed by the respondent, Auckland Wood Waste Removals Limited. The respondent has not co-operated with the Authority.

[2] Mr Manavese was employed on 21 January 2008 and his employment was terminated on 21 October 2008. Mr Manavese was telephoned by his employer and told to meet with him. No indication was given about the content of the meeting and Mr Manavese was not offered the opportunity to have a representative present. Mr Manavese was told that there was insufficient work and he was to be laid off.

[3] The termination of Mr Manavese's employment was unjustified and he has a personal grievance.

[4] I am satisfied that Mr Manavese did not contribute to the situation that gave rise to the personal grievance.

[5] Mr Manavese was given a final pay of \$191. Unauthorised deductions were made from the final fortnight's pay. Mr Manavese is owed \$991.82 net for the final fortnight.

[6] Mr Manavese was successful in finding other employment a month after he was terminated. This was on a lower pay rate. The difference between Mr Manavese's weekly salary of \$750 gross and his new salary of \$460 gross is \$290 per week. Mr Manavese is entitled to be paid the difference for a period of three months. This totals \$3,770 gross.

[7] Mr Manavese took 2 days' annual leave during the course of his employment. He was employed for 39 weeks and 3 days. His salary for the period of employment was \$29,700. Mr Manavese is owed annual leave totalling \$2,352.00.

[8] I am satisfied that Mr Manavese was humiliated and distressed by the manner of his dismissal. The respondent is to pay Mr. Manavese the sum of \$3,500 pursuant to s123 (1) (c) (i) Employment Relations Act 2000.

[9] In addition to the \$3,500 the respondent is also to pay Mr Manavese the following sums:

- \$991.82 unauthorised deductions
- \$3,770.00 reimbursement of wages pursuant to s 123 (1) (b) Employment Relations Act 2000
- \$2,352.00 unpaid annual leave
- Interest on these amounts at the rate of 4.68%, the interest to run from 24 October 2008 until such time as the amounts are paid in full.

Costs

[10] The applicant has incurred \$500 in legal fees and seeks payment of this amount plus payment of the filing fee of \$70.

[11] The respondent is to pay the applicant \$500 costs and the \$70 filing fee.

Dzintra King

Member of the Employment Relations Authority