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McLeod v Bishop WA 145/07 (Wellington) [2007] NZERA 700 (29 October 2007)

Last Updated: 19 November 2021

IN THE EMPLOYMENT RELATIONS AUTHORITY WELLINGTON

WA 145/07 5093048

BETWEEN Eric McLeod Applicant

AND Damian Bishop Respondent

Member of Authority: Denis Asher

Representatives: Mr McLeod represented himself

No attendance by or for Mr Bishop Investigation Meeting Wellington, 29 October 2007

Determination: 29 October 2007

DETERMINATION OF THE AUTHORITY: Oral Determination

Employment Relationship Problem

[1] In his statement of problem filed in the Authority on 14 August 2007 Mr McLeod said he had not been paid for plastering work done for Mr Bishop, a tiler. He sought 70 hours employment at \$15.00 per hour less damages he accepted responsibility for, plus legal costs (of \$250 for advice and the \$70 filing fee), i.e. a total of \$1,503.00.

[2] No statement in reply has been received from Mr Bishop.

[3] The parties have not undertaken mediation in respect of this employment relationship problem. Mr McLeod's evidence is that he arranged mediation on two separate occasions but Mr Bishop failed to attend.

[4] Because of Mr Bishop's non participation in resolving this employment relationship problem, I arranged for a telephone conference of the parties on 12 October: Mr Bishop initially participated until, at some point and without notice or any attempt to reconnect, Mr Bishop departed the conference call. During the conference call, and by way of written advice signed for by Mr Bishop, I directed that this matter proceed to an investigation on Monday 29 October 2007. Mr Bishop was telephoned today by an Authority support officer: he initially denied receiving advice of the investigation until reminded he had signed for the notification. He then advised he would not be attending. I elected to proceed in his absence: Clause 12 of Schedule 2 of the [Employment Relations Act 2000](#) applied.

Applicant's Position

[5] During the investigation, and by way of his oath, Mr McLeod confirmed the relevant facts of his claim as set out in his statement of problem. In brief, they are that he reached agreement with Mr Bishop to undertake plastering work for him, for 70 hours at \$15.00 nett.

[6] Mr McLeod also claims holiday pay of \$63.00 as well as his legal and filing fees of \$250 and \$70 respectively.

[7] When damages, not caused by the applicant but for which he assumes responsibility, are taken out of his calculation, the total sum claimed is \$1,503.00 nett.

Discussion and Findings

[8] I had no reason to doubt Mr McLeod's credibility and, by way of an oral determination, found in the applicant's favour.

Determination

[9] Mr Bishop is to pay to Mr McLeod the sum of \$1,503.00 nett (one thousand, five hundred and three dollars), so as to meet the applicant's claim for unpaid wages and subsequent legal costs.

Denis Asher

Member of the Employment Relations Authority

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