

Determination Number; WA 131/05

File Number: WEA 168/05

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON BRANCH**

BETWEEN	Alun McGowan (applicant)
AND	SDP Call Centres Limited (respondent)
REPRESENTATIVES	Charlotte Hoggard for the applicant Fintan Devine for the respondent
MEMBER OF THE AUTHORITY	Denis Asher
DATE OF DETERMINATION	15 August 2005

CONSENT DETERMINATION OF AUTHORITY

Employment Relationship Problem

1. This application was brought by Mr Alun McGowan, a Department of Labour Labour Inspector, on behalf of two others. It was alleged holiday pay was outstanding – statement of problem received on 3 May 2005.
2. No statement in reply was ever received from the Company and the parties had not undertaken mediation.

3. Because of the Company's silence I set this matter down for an investigation in Wellington on Tuesday 16 August, 2005.

Settlement Reached

4. The parties advised today of a settlement. A copy of the memorandum of consent signed off by the parties counsel was forwarded to the Authority. The parties request that it be recorded by way of a consent order determination. I accept that request.
5. The terms of the Authority's determination are those agreed to by the parties and are as follows:

The parties have agreed to settle their matters in dispute and request the Authority records the following as a consent order:

1. Employment status

SDP Call Centres Ltd ("SDP") acknowledges that the relationship between it and Christine Stewart ("Christine") at all material times, namely from 13 February 2001 to 11 October 2001 and from 7 January 2002 to 25 February 2003, was one of employment.

SDP acknowledges that the relationship between it and Peter North ("Peter") at all material times, namely from 11 November 2002 to 29 August 2003, was one of employment.

2. Payment

SDP will pay Christine the sum of \$2,114.16 gross in four (4) equal monthly instalments of \$528.54 gross on the 24th of each month, with the first payment to be made on 24 August 2005.

SDP will pay Peter the sum of \$4,519.14 gross in four (4) equal monthly instalments of \$1129.79 gross on the 24th of each month, with the first payment to be made on 24 August 2005.

Tax at the lump sum payments rate (22.2%) will be deducted from each instalment payment by SDP.

Payments to be made by cheque payable to Christine and Peter, and sent via the Labour Inspector

_(signed)_____

*Charlotte Hoggard
Counsel for applicant
Date: 15/08/05*

_(signed)_____

*Fintan Devine
Counsel for the respondent
Date: 15/08/05*

6. The parties are to be commended for this outcome.

Denis Asher
Member of Employment Relations Authority