

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**AA 290A/09
5153070**

BETWEEN DEBORAH JAN POTTER
Applicant

AND ELDERSTOCK LIMITED
Respondent

Member of Authority: Leon Robinson

Representatives: Andrew Potter, Advocate for Applicant
Giles Brant, Counsel for Respondent

Investigation Meeting: 7 October 2009

Determination: 23 November 2009

DETERMINATION OF THE AUTHORITY (No 2)

The problem

[1] This Determination follows that previously issued by the Authority dated 19 August 2009¹. The parties were directed to reach agreement between them as to the particular public holidays for which the applicant Ms Deborah Jan Potter ("Mrs Potter") is entitled to payment during the time of her service with the respondent Elderstock Limited ("Elders"). The parties were not able to reach agreement between them and the matter was referred back to the Authority for final determination.

[2] Mrs Potter says she is entitled to payment for these particular days as public holidays:-

Monday	24 October 2005
Monday	17 April 2006
Monday	5 June 2006
Monday	23 October 2006
Monday	4 June 2007

¹ AA290/09

Monday	22 October 2007
Wednesday	26 December 2007
Wednesday	2 January 2008
Wednesday	6 February 2008
Monday	24 March 2008
Monday	2 June 2008
Monday	27 October 2008
Thursday	25 December 2008
Thursday	1 January 2009
Monday	13 April 2009
Monday	1 June 2009

The merits

[3] I agree that the days now claimed by Mrs Potter as set out above were days that she did not work but which would otherwise have been working days for her. I find that she is entitled to be paid for these public holidays.

[4] The said days are all Mondays, Wednesdays and Thursdays being defined as Mrs Potter's usual days of work. They exclude Mondays during the period from December to March each year, when an arrangement was made between Mrs Potter and Mrs Bartz that Mrs Potter did not work.

The determination

[5] The Authority's determination is as set out in paragraph 3 above.

The resolution

[6] The parties now have 28 days to attempt to reach agreement on quantum but if they are unable to agree, either party may seek leave to have the Authority determine the matter. Any such application must be made within 28 days of the date of this Determination.

Leon Robinson
Member of Employment Relations Authority

