

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE LOCATION OFFICE**

**BETWEEN** Colin Wallace Powell (First Applicant)  
AND Lisa Strong Gorringe (Second Applicant)  
AND Norman Graham Holm (Third Applicant)  
AND Nontje Aldworth (Fourth Applicant) Applicant

**AND** New Zealand Education Limited (Respondent) Respondent

**REPRESENTATIVES** Colin Wallace Powell, Lisa Strong Gorringe, Nondje Aldworth and  
Norman Graham Holm all in person.  
  
Wayne Gordon and John Vincent, Directors, for respondents.

**MEMBER OF AUTHORITY** Y S Oldfield

**INVESTIGATION MEETING** 9 March 2006

**DATE OF DETERMINATION** 13 March 2006

DETERMINATION OF THE AUTHORITY

**Employment Relationship Problem**

- [1] Until recently the respondent company operated Sterling College in Hamilton. Mr Powell, Mr Holm and Ms Gorringe all taught there and Ms Aldworth was the librarian. Towards the end of last year the College faced cash flow difficulties as a result of declining student numbers. Wages were not paid for several weeks before the staff ceased employment. All now seek their outstanding wages and holiday pay.
- [2] Mr Vincent and Mr Gordon, directors of the respondent, have never denied that the respondent owes the applicants these arrears. Their difficulty has been in meeting the debts. There was however some disagreement between the parties over the precise amounts owed, and an assertion from the directors that no holiday pay was owed because holiday pay was included in the hourly rates of the staff. None of the applicants had received any paid holidays during their employment.
- [3] At my request wage and time records and employment agreements were supplied. I then met with the parties to go over these records and establish precisely what each of the applicants was owed.
- [4] Two of the applicants did have agreements that stated that their remuneration included holiday pay. One, Mr Holm, advised me that he did not wish to pursue a claim for holiday pay. The other, Ms Gorringe, was seeking holiday pay. Mr Vincent and Mr Gordon acknowledged that

she was in ongoing employment with the respondent. They told me that the clause in question had simply been “inherited” from contracts drafted by previous owners of the business.

- [5] As I told the directors at my meeting with them, I find no reason why Ms Gorringer should be denied the normal entitlements due under the Holidays Act. Once this issue was disposed of, it became relatively straightforward to work through the records with the parties around the table and calculate the arrears owed. Each of the applicants had been unpaid for a period of 5-7 weeks apart from one payment each of \$571.42 net.
- [6] The parties confirmed the final figures as correct and I now proceed to make orders on that basis.

## Orders

- [7] **NZ Education Ltd is ordered to pay to Mr Holm the total claimed being the sum of \$2,563.58 gross.**
- [8] **NZ Education Ltd is ordered to pay to Ms Aldworth:**
- **Seven weeks arrears of wages at \$300.00 per week less \$571.42 being the sum of \$1528.58 gross, and in addition**
  - **holiday pay at 6% of her total gross earnings being \$414.48 gross.**
- [9] **NZ Education Ltd is ordered to pay to Ms Gorringer**
- **Six weeks arrears of wages at \$525.00 per week less \$571.42 being the sum of \$2,578.58 gross, and in addition**
  - **Holiday pay at 6% of her total gross earnings being \$545.31 gross.**
- [10] **NZ Education Ltd is ordered to pay to Mr Powell**
- **Seven weeks arrears of wages at \$875.00 per week, plus a further three hours at \$35.00 per hour, less \$571.42, being the sum of \$5,658.58 gross, and in addition**
  - **Holiday pay at 6% of total gross earnings being the sum of \$2,549.64.**

## Costs

- [11] The applicants have also sought costs. They claim the filing fee of \$70.00 plus \$15.90 in courier fees incurred for delivery of documents.
- [12] I accept that these are reasonable claims. **The respondent is therefore ordered to pay to the applicants jointly \$70.00 in reimbursement of the filing fee and \$15.90 disbursements.**

Y S Oldfield  
Member of Employment Relations Authority