

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Firoz Pundol (Applicant)
AND Wairau Stone Limited (Respondent)
REPRESENTATIVES Firoz Pundol In person
No appearance for Respondent
MEMBER OF AUTHORITY Y S Oldfield
INVESTIGATION MEETING 8 December 2005
DATE OF DETERMINATION 9 December 2005

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

- [1] Mr Pundol was the respondent's accountant from late February 2003 until 24 June 2005. Towards the end of his employment payment of his wages became erratic. By 24 June he was owed four weeks wages and decided that he could not continue to work for the respondent. He now seeks arrears of those four weeks plus outstanding holiday pay.
- [2] When the statement of problem was first sent out to the respondent, at the registered address then recorded on the Companies' Register, Courier Post (to whom the Authority delegates the task of service) was not able to effect service. Mr Pundol however advised that he remained in personal contact with a director of the respondent Mr Roderick Harrison so, pursuant to Regulation 16(3) (a) (iv). I directed that service upon the respondent company should be effected through personal service on Mr Roderick Harrison, and that this should be arranged by the applicant.
- [3] In due course Mr Pundol advised that he had done so. Mr Pundol attended my investigation meeting with Ms Clara Blackwell, who had worked with him for the respondent and who has lodged a similar employment relationship problem with the Authority. Mr Pundol and Ms Blackwell are now in business together and have an office at 2/133 Bairds Rd Otara. Mr Pundol told me that he handed the statement of problem to Mr Harrison when he visited 2/133 Bairds Rd Otara at approximately 2.00pm on September 20, 2005. I am satisfied that this constituted service on the respondent company.
- [4] Subsequent to this, the Authority support officer checked the Companies' Register again and found that a change of registered office had been recorded. The notice of investigation meeting was therefore served on the new address. There was no statement in reply or other response from Wairau Stone Ltd, and no appearance from the respondent on the morning of the

investigation meeting. Courier Post has provided confirmation of service of the notice of investigation meeting and on that basis I have proceeded to investigate and determine the matter in the respondent's absence.

Wage Arrears claim

[5] Mr Pundol told me that he was employed by the respondent company as its accountant from late February 2003 when it purchased the business he had worked for previously. His rate of pay was \$810.00 gross per week. Mr Pundol told me that Mr Harrison has never denied that the respondent owes him four weeks wages. As late as the day before the investigation meeting, he said, Mr Harrison promised that he would pay the money as soon as he is able.

[6] Mr Pundol is entitled to the four weeks wages being \$3,240.00 gross.

Holiday pay

[7] Pursuant to the Holidays Act Mr Pundol is entitled to 15 days per annum for his two complete years of employment (that is, a total of 30 days) plus a further six percent of gross earnings for the balance of the time he was employed.

[8] At Christmas in 2003 and again in 2004 the business closed down for three weeks. Mr Pundol was paid throughout these closedowns but otherwise took no leave of any sort. After allowing for the four days statutory holidays which fell during each of the closedowns he has taken 22 days annual leave in all.

[9] He thus had a balance of eight days holidays owing at his second anniversary of employment, which for convenience I take as being 28 February 2005. His outstanding holiday pay at that point therefore comes to \$1,296.00.

[10] He was then employed for a further 17 weeks at \$810.00 gross per week making his total earnings for that period \$13,770.00. Six percent of this figure is \$826.20.

[11] Mr Pundol is therefore owed a total of \$2,122.20 gross holiday pay.

Summary of orders

[12] The respondent, Wairau Stone Ltd is ordered to pay to Mr Pundol:

- **\$3,240.00 gross arrears of wages;**
- **\$2,122.20 gross outstanding holiday pay.**

Y S Oldfield
Member of Employment Relations Authority