

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 350/08
5131941

BETWEEN Susan Quinn Labour Inspector

AND D M Barnes Ltd

Member of Authority: Janet Scott

Representatives: Susan Quinn in person
No appearance for respondent

Investigation Meeting: 10 October 2008

Determination: 10 October 2008

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The Labour Inspector seeks to recover outstanding annual holiday pay for the use of complainant worker Robert Tipene. The sum sought is \$164.19 gross. The Labour Inspector also seeks interest on this sum and seeks to recover the filing fee of \$70 incurred in bringing this matter before the Authority.

[2] I am satisfied the respondent has been served with the Statement of Problem and Notice of Investigation Meeting. There was no appearance for the respondent and pursuant to the provisions of Clause 12 Schedule 2 of the Act I have proceeded to hear and determine the matter before me.

Investigation Meeting

[3] The Labour Inspector advised that the respondent had cooperated with her to the extent that it had provided pay records for the worker in question, Robert Tipene. The Labour Inspector calculated outstanding holiday pay on the basis of the records

provided. The records suggest the employment ended on 8 December 2007. However, the Department has been unable to verify this as communications with both the employer and the worker have been difficult and erratic.

[4] The Labour Inspector also advises that on 8 May 2008 she provided the respondent with an opinion that \$164.19 gross in annual holiday pay remains outstanding and payable to the worker Robert Tipene. She requested payment of this sum. The respondent has never disputed the sum payable and in fact has made numerous promises to make this payment. Despite promises to pay no payment has been received.

[6] I am satisfied the sum sought by the Labour Inspector for the use of Robert Tipene is owing and payable.

Determination

The respondent is directed to pay to the applicant, Susan Quinn, the sum of \$164.19 gross in outstanding annual holiday pay.

The respondent is also directed, pursuant to Clause 11, Schedule 2 of the Act, to pay interest on this sum at the rate of 9% per annum from 8 May 2008 until payment is made.

Costs

The respondent is directed to pay \$70 to the Labour Inspector to reimburse her for the cost of filing this matter in the Authority.

Janet Scott

Member of the Employment Relations Authority

