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Robertson v Quan (Auckland) [2017] NZERA 64; [2017] NZERA Auckland 64 (10 March 2017)

Last Updated: 10 April 2017

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2017] NZERA Auckland 64
5641579

BETWEEN SARAH ROBERTSON Applicant

AND HIENG QUAN Respondent

Member of Authority: Eleanor Robinson

Representatives: Applicant in person

Respondent in person

Investigation Meeting: 9 March 2017 in Hamilton

Determination 10 March 2017

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The Applicant, Ms Sarah Robertson, claims that she was unjustifiably dismissed by the Respondent, Ms Hieng Quan. Ms Robertson also claims that she is owed monies by Ms Quan in respect of the termination of her employment on 16 May 2016 and in the form of unpaid minimum wages payments and statutory holiday entitlements.

Failure of Applicant to attend or be represented

[2] A case management conference call was held on 14 October 2016. Ms Quan had not filed a Statement in Reply, nor did she attend the case management conference call. During the case management conference call Ms Robertson advised that she was planning to take an overseas trip in February 2017. Accordingly, the Investigation Meeting was set down to be held on 9 March 2017, and this was advised to the parties by means of a Notice of Investigation Meeting dated 11 November 2016.

[3] Ms Robertson did not attend the Investigation Meeting on 9 March 2017.

2

[4] Ms Robertson failed to advise the Authority of the reason for her non-attendance until the Authority Officer, who had made a number of efforts to contact her without success both prior to 9 March 2017 and on the morning of the Investigation Meeting, finally managed to make contact with her in the afternoon of 9 March 2017.

[5] At that time Ms Robertson attributed her failure to attend the Investigation Meeting to an overseas trip and her understanding that the Investigation Meeting was to take place the following day, 10 March 2017.

[6] Ms Robertson was asked to provide evidence supporting her reason for her non-attendance, including confirmation of the date when the overseas trip had been booked. She has failed to do so.

Determination

[7] Ms Robertson was advised in the Notice of Investigation Meeting form issued pursuant to Regulation 21 of the [Employment Relations Authority Regulations 2000](#) (the Regulations) that: *“If the Applicant does not attend the investigation meeting, the matter can be dismissed and costs may be awarded against the Applicant”*.

[8] Ms Robertson failed to attend the Investigation Meeting to be held on 9 March 2017 without good reason.

[9] For the reasons set out above I am satisfied that Ms Robertson had notice of the Investigation Meeting and that she chose without reasonable excuse not to attend or to be represented.

[10] Accordingly I am dismissing the matter and awarding costs against Ms Robertson pursuant to Regulation 21 of the Regulations.

[11] Ms Robertson is ordered to pay costs in the sum of \$500.00 payable to the Crown. Payment is to be made within 14 days.

Eleanor Robinson

Member of the Employment Relations Authority

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