

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2016] NZERA Auckland 377
5644747

BETWEEN

SOPHIE SCOTT
Applicant

A N D

SUPERTURF LIMITED
Respondent

Member of Authority: T G Tetitaha

Representatives: Applicant in person
No appearance by or for Respondent

Investigation Meeting: 16 November 2016 by telephone

Submissions Received: 16 November 2016

Date of Oral Determination: 16 November 2016

Date of Determination: 17 November 2016

ORAL DETERMINATION OF THE AUTHORITY

- A. Superturf Limited is to pay Sophie Scott the sum of \$3,923.09 being her outstanding annual leave pursuant to s.131 of the Employment Relations Act 2000.**
- B. Superturf Limited is also to pay Sophie Scott the sum of \$71.56 being her filing fee for this application.**

Employment relationship problem

[1] Sophie Scott seeks payment of annual leave following the termination of her employment with Superturf Limited (Superturf).

Non-appearance by respondent

[2] The statement of problem was served on Superturf's company office on 20 October 2016. The date for filing a statement in reply expired without receipt of that document.

[3] On 8 November 2016, the Authority officer emailed the company advising the statement in reply had not been received and it would need to apply for leave. The email was sent to brett@superturf.co.nz and admin@superturf.co.nz. These email addresses were on correspondence filed by Ms Scott. No reply was received.

[4] Notice of this telephone conference was emailed to the same email addresses on 9 November 2016. A read receipt was received from brett@superturf.co.nz that same day.

[5] An attempt was made to contact Brett Jenkins, managing director of Superturf Limited at the company's office number for the telephone conference today. No response was received.

[6] No good cause has been shown for the failure by Superturf to file a statement in reply or take any steps in this proceeding. I intend continuing to determine this matter in the absence of Superturf.¹

Investigation Meeting

[7] Ms Scott consents to the holding of the investigation meeting today. She has personal commitments which would prevent her from attending a further investigation meeting. No hearing time is available until next year.

[8] Ms Scott is aware that Superturf has been served with a liquidation order. To her knowledge there are several other people still owed leave due to incorrect calculations and Superturf is aware of this problem.

[9] The expense and possible consequences of delay in circumstances where Superturf has failed to take steps indicate that there is a need for an investigation meeting to occur without delay. I direct that this occur pursuant to Regulation 21(1) of the Employment Relations Authority Regulations 2000.

¹ Clause 12 Schedule 2 Employment Relations Act 2000 (Act).

[10] Ms Scott has taken an affirmation and confirmed the evidence she wishes to provide me is contained within and attached to her statement of problem filed. She has also provided oral evidence today.

Determination

[11] Ms Scott was employed by Superturf from 11 August 2014 to 19 August 2016. During that period of time, she took approximately 23 days' holiday leave. She terminated her employment due to her pregnancy. She requested payment of her annual leave upon termination but no payment has been received.

[12] Given Superturf has taken no steps in this proceeding I can only assume it has no defence to her claims.

[13] At termination Ms Scott had accrued 8 weeks' annual leave.² 23 days' leave shall be deducted from 8 weeks or 40 days owed leaving 17 days annual leave outstanding. Dividing the 17 days by the 5 day week leaves 3.4 weeks of annual leave owed.

[14] Given her employment terminated after her 12 month employment anniversary her leave must be calculated using her ordinary weekly pay.³ Ms Scott has provided copies of her final pay slip. This records her ordinary weekly pay was \$1,153.85. By multiplying the annual leave owed (3.4 weeks) by her ordinary weekly pay (\$1,153.85) equates to annual leave owed of \$3,923.09.

[15] In the circumstances, I make the following orders:

- (a) Superturf Limited is to pay Sophie Scott the sum of \$3,923.09 being her outstanding annual leave pursuant to s.131 of the Employment Relations Act 2000 (the Act).
- (b) Superturf Limited is also to pay Sophie Scott the sum of \$71.56 being her filing fee for this application.

T G Tetitaha
Member of the Employment Relations Authority

² 8 weeks based on a 5 day week equates to 40 days annual leave.

³ See ss8 and 24 Holidays Act 2003.

