

IN THE EMPLOYMENT RELATIONS AUTHORITY

Auckland

[2017] NZERA Auckland 317
3016752

BETWEEN ROHIT KUMAR SHARMA
Applicant

AND NZ NATURAL PURE LIMITED
Respondent

Member of Authority: TG Tetitaha

Representatives: Applicant in person
H Saini, for Respondent

Investigation Meeting: 10 October 2017

Oral Determination 10 October 2017
delivered:

Written Determination 24 October 2017
issued:

**ORAL DETERMINATION OF THE EMPLOYMENT RELATIONS
AUTHORITY**

A. The personal grievance is dismissed. There are no costs because the parties were self-represented.

[1] Rohit Sharma alleges he was unjustifiably dismissed “on injury and non-payment of wages”. He also seeks reimbursement of his expenses in resolving this issue including vehicle expenses, lost days work for himself and his wife attending mediation and his filing fee totalling \$401.67 net.

Facts

[2] Mr Sharma was employed as a truck driver by NZ Natural Pure Ltd (company) on 22 August 2016.

[3] On 26 November 2016 he was injured at work. He could not return to his normal duties. He was subsequently advised on 5 December 2016 his employment was terminated.

[4] On 4 February 2017 he met with Harbinder Saini, Managing Director of the company.

[5] On 7 February 2017 Mr Sharma wrote to Mr Saini complaining about non-payment of wages. The letter did not mention his dismissal.

[6] It is not until his statement of problem is filed and later served on 17 August 2017 that a personal grievance of unjustified dismissal was raised.

Personal grievance

[7] A grievance is raised with an employer as soon as the employee has made, or has taken reasonable steps to make, the employer aware that the employee alleges a personal grievance that the employee wants the employer to address (s114(2)).

[8] What is important is that the employer is made aware sufficiently of the grievance to be able to respond as the legislative scheme mandates.¹ No formality is required to raise a personal grievance.²

[9] There is no evidence a personal grievance of unjustified dismissal was raised with the respondent within 90 days of the dismissal occurring. The evidence shows Mr Sharma's personal grievance was not raised until service of his statement of problem occurred on 17 August 2017. This is 165 days after the 90 period had expired on 5 March 2017.

¹ *Creedy v. Commissioner of Police* [2006] ERNZ 517 (EmpC) at [36]

² *Twentyman v The Warehouse Limited* [2016] NZEmpC 172 at [42].

[10] There are no exceptional circumstances evidenced to warrant extending the time limitation period. Mr Sharma gave evidence he saw a lawyer at the community law centre in February 2017 whom advised him to raise a personal grievance with his employer within 90 days. Unfortunately he failed to do so.

[11] The personal grievance is dismissed. There are no costs because the parties were self-represented.

T G Tetitaha
Member of the Employment Relations Authority