

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

Determination
Number: WA 69/08
File Number: 5115436

BETWEEN

VINKO PAUL STAUB
Applicant

AND

IJ CONTRACTORS LIMITED
Respondent

Member of Authority: G J Wood

Representatives: Christine Tiefenbacher for Applicant
Milo Faletolu for Respondent

Investigation Meeting: 22 May 2008

Determination: 22 May 2008

ORAL DETERMINATION OF THE AUTHORITY

[1] The applicant, Mr Vinko Staub, was a valued employee of the respondent, I J Contractors Limited, and its predecessor company, Brooklyn Holdings Limited (the principal of both of whom is Mr Lance James), for four years, during which time he rose to the position of painting supervisor.

[2] On Tuesday, 20 November, 2007, I J Contractors was ordered off the site it was responsible for in the troubled Brooklyn Rise development immediately, and no more payments were to be made to it. These actions by the development's financiers are being pursued in Court by Mr James on behalf of I J Contractors and other associated entities.

[3] As a result, however, I J Contractors allegedly had no funds to pay Mr Staub and others their last two days' wages, holiday pay and pay in lieu of notice. I use the word allegedly because IJ Contractors was directed to provide financial records to substantiate its position, but has failed to do so.

[4] In any event, I J Contractors accepts that it owes Mr Staub the following amounts - \$3,381.58 in unpaid holiday pay; \$412.50 for Mr Staub's last two days work, plus holiday pay for

that period of \$33; and \$2,000 for failure to pay Mr Staub two weeks' notice. These sums are therefore owing and should be paid.

[5] On behalf of Mr Staub, Ms Tiefenbacher also seeks to recover the \$70 filing fee and costs of \$1,500 (which will only be charged to Mr Staub if he is successful in recovering the moneys owed to him). I accept that Mr Staub has incurred costs and is entitled to recover a fair contribution towards them. The amounts he is owed have not been disputed at the investigation meeting. There have, however, been costs incurred in compiling information on the amounts owing for the investigation, and other preparation as well. Partly as a result, the investigation meeting lasted less than 30 minutes. No written statements were required in advance. In all the circumstances, I conclude that \$300 is an appropriate contribution to costs that is fair to both parties.

[6] I therefore order the respondent, I J Contractors Limited, to pay to the applicant, Mr Vinko Staub, the following sums:

- \$3,381.58 gross in unpaid holiday pay;
- \$412.50 gross in unpaid wages;
- \$33.00 gross in holiday pay on the unpaid wages;
- \$2,000.00 gross for failure to provide two weeks' notice;
- \$70 filing fee; and
- \$300 in costs.

G J Wood
Member of the Employment Relations Authority