

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2016] NZERA Christchurch 176
5633965

BETWEEN BEVERLY TAIT
Applicant

A N D TANIA BARRY
Respondent

Member of Authority: Peter van Keulen

Representatives: Applicant in person
No appearance by or for the Respondent

Investigation Meeting: 29 September 2016 at Ashburton

Oral Determination
issued: 29 September 2016

Written Determination
issued: 29 September 2016

ORAL DETERMINATION OF THE AUTHORITY

This determination is a written record of an oral determination delivered on 29 September 2016.

Employment relationship problem

[1] The applicant, Beverly Tait, was employed by the respondent, Tania Barry, as a courier driver. Ms Tait worked 163 hours but was only paid the net sum of \$742.50. Ms Tait has not been paid her full wages for the period worked nor has she been paid holiday pay due to her at the termination of her employment. Ms Tait has made an application for payment of arrears of wages and holiday pursuant to s 131 of the Employment Relations Act 2000.

Preliminary matters

[2] Ms Tait issued her statement of problem against Ms Barry on 5 July 2016. Ms Barry was served with the statement of problem on 8 July 2016. Ms Barry has not filed a statement in reply.

[3] The Authority tried to contact Ms Barry by phone and left a message on her voice mail. Ms Barry did not call back

[4] The Authority then advised Ms Barry that a telephone conference would be scheduled to progress this matter. Ms Barry was personally served with the notice of the telephone conference on 13 August 2016. Ms Barry signed a track and trace delivery to confirm receipt.

[5] The telephone conference was held on 26 August 2016 at 3:30 pm and Ms Barry did not participate despite the Authority calling her.

[6] In that telephone conference, I set this matter down for today's investigation meeting.

[7] Ms Barry was then served with the notice of direction which recorded the directions I had made in the telephone conference and with a notice of investigation meeting confirming the date, time and venue for today's investigation meeting. Again, Ms Barry signed a courier delivery confirming receipt of the two notices.

[8] Ms Barry has not attended today.

[9] In all of the circumstances, it is safe for me to proceed without Ms Barry being present at the investigation meeting as I am satisfied she is on notice of the claim being made against her and that this matter was proceeding today whether she appeared or not.

Events giving rise to the employment relationship problem

[10] Ms Barry employed Ms Tait from 13 April 2016 until 10 May 2016. She was employed as a courier driver and was paid \$15.50 per hour.

[11] Ms Tait worked 163 hours and was paid only \$742.50 (net) which is \$892.18 (gross).

[12] Ms Tait should have received \$2,526.50 (gross). At the end of her employment Ms Tait should also have been paid holiday pay at the rate of 8% of her total earnings. This is \$202.12 (gross). This was not paid.

[13] Ms Tait is owed \$1,634.32 (gross) in wage arrears and \$202.12 (gross) in holiday pay.

Determination

[14] I make an order that Ms Barry is to pay arrears of wages to Ms Tait of \$1,634.32 (gross) and holiday pay of \$202.12 (gross). These payments are to be made within fourteen days of this determination.

[15] I also award interest on these sums at the current rate of 5% (under the Judicature Act) from 10 May 2016 until payment is made in full.

Costs

[16] Ms Tait is also entitled to the filing fee on the statement of problem. I order that Ms Barry pay Ms Tait the additional sum of \$71.56 also within fourteen days of this determination.

Peter van Keulen
Member of the Employment Relations Authority