

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Anton Taljaard, Labour Inspector (Applicant)  
**AND** Valentine Apparel Limited (Respondent)  
**REPRESENTATIVES** Applicant in person  
No appearance for Respondent  
**MEMBER OF AUTHORITY** Robin Arthur  
**INVESTIGATION MEETING** 21 November 2006  
**DATE OF DETERMINATION** 22 November 2006

**DETERMINATION OF THE AUTHORITY**

[1] The applicant Labour Inspector seeks recovery of wages and holiday pay owed to Maria Wilson, a former employee of the respondent, under the Minimum Wages Act 1983 and the Holidays Act 2003. He also seeks a penalty, interest on the amount owed and costs.

[2] The respondent did not file a statement in reply. Copies of the investigation meeting notice were sent to the company's registered office address and a post box and an email address that its director Carl Biss had provided the applicant as contact addresses. No one appeared for the respondent at the investigation meeting. Companies Office records show the respondent remained a registered company as at the date of the investigation meeting. After the notified starting time of the meeting attempts were made to contact Mr Biss on a landline number and a mobile telephone number. Neither were successful. After waiting for 20 minutes after the appointed time, I proceeded with the meeting.

[3] By letter to the applicant dated 12 July 2006 Mr Biss accepted that the respondent owed wages to Ms Wilson for 57 hours of work done in June 2006. He also accepted that Ms Wilson was owed seven days annual leave entitlement amounting to \$665.91 gross (\$528.58 nett). He advised that the respondent's factory had closed but that Ms Wilson would be paid when the respondent was paid by a customer, which was expected to be in late July.

[4] Ms Wilson has not since been paid the wages or holiday pay owed to her. Neither has Mr Biss responded to any further inquiries or correspondence from the Labour Inspector.

[5] On the basis of the sworn and unchallenged evidence of the Labour Inspector I am satisfied that the respondent is in breach of the Minimum Wages Act 1983 and the Holidays Act 2003 in failing to pay wages and holiday pay owed to Ms Wilson. These breaches warrant a penalty. The former employee has been put out of money owed to her and is entitled to an award of interest. Interest is to be awarded at the 90-day bill rate as at 21 November 2006 of 7.64 per cent plus one per cent. The Labour inspector is entitled to recover his fee for filing this matter in the Authority.

[6] Ms Wilson was to be paid \$11 an hour but can recover only the applicable statutory minimum hourly rate at the time of \$10.25 for the unpaid 57 hours she worked in June. That amounts to \$584.25 (gross). She is entitled to holiday pay calculated on her actual hourly rate.

**Orders**

[7] Accordingly I make the following orders:

- (i) The respondent is ordered to pay to Labour Inspector, for the benefit of the applicant, the following sums:
  - **\$584.25** (gross) in wages owed; and
  - **\$665.91** (gross) in annual leave; and
  - Interest on the above amounts for the 132 days from 12 July 2006 (when the respondent accepted amounts were owed) to 21 November 2006, at the rate of 8.64 per cent, being **\$39.60** and;
  - Daily interest from 22 November 2006 on the above amounts of **30 cents a day** until the amounts owed are paid in full.
- (ii) The respondent is also to pay to the Employment Relations Authority, to then be transferred to the Crown account, the further sum of **\$800** as a penalty for the respondent's breaches of the Minimum Wages Act 1983 and the Holidays Act 2003; and
- (iii) The respondent is also to pay the Labour Inspector the further sum of **\$70** in reimbursement of his filing fee.

Robin Arthur  
Member of Employment Relations Authority