

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
OFFICE**

BETWEEN	Ibrahim Twagirimana
AND	Metro Motor Holdings Penrose Limited
REPRESENTATIVES	Applicant in Person No appearance for the Respondent
MEMBER OF AUTHORITY	Dzintra King
INVESTIGATION MEETING	25 August 2006
ADDITIONAL EVIDENCE RECEIVED	18 September 2006
DATE OF DETERMINATION	16 October 2006

DETERMINATION OF THE AUTHORITY

Mr Twagirimana says he is owed a week's wages and his holiday pay. Mr Twagirimana was paid \$440.00 gross per week. He commenced employment in May 2004 and took no annual leave. He has not been paid for the week of 12 December 2005. There was confusion about the identity of Mr Twagirimana's employer. He told me he worked at Penrose most of the time and sometimes when it was busy at Pollen Street, the address of Metro Motor Holdings Limited.

Metro Motor Holdings Penrose limited was incorporated on 4 May 2005. The director is Mr Grant Kane. Metro Motor Holdings Limited was incorporated on 9 June 1988 and the director of that company is Frederick Richards. Greenpark Compliance Centre Limited was incorporated on 4 October 2005. Its director is Deanna Skeens.

Mr Twagirimana could not have been employed by Metro Motor Holdings Penrose Limited in May 2004 as that company did not come into existence until a year later. Mr Twagirimana produced a letter written by a Mr Knott, the accountant for Metro Motor Holdings Limited, dated 5 January 2005 stating that Mr Twagirimana was an employee and that his wages were \$440 gross per week.

Mr Twagirimana also had a letter on Metro Motor Holdings Penrose Limited letterhead dated 9 September 2005. This stated that the director, Mr Kane, had decided to close the company's compliance centre at 26 Greenpark Road in Penrose, that Mr Twagirimana's employment would terminate on 23 September 2005 and all outstanding holiday pay would be paid on that date. Mr Twagirimana commenced employment with Greenpark Compliance Centre after his employment with Metro Motor Holdings Penrose terminated. Mr Twagirimana thought his employment at Greenpark was a continuation of his employment with Metro Motor Holdings Penrose Limited but the termination letter shows that it was new employment with a different company.

Mr Twagirimana says he is owed a week's wages for December 2005. As his employment with Metro Motor Holdings Penrose Limited ceased on 23 September it is the Greenpark Compliance Centre Limited that would be liable for that payment, if that money is owed by Greenpark. As these proceedings were not filed against Greenpark I can make no determination on that matter.

Mr Twagirimana supplied a payslip from Metro Motor Holdings Penrose Limited for the period ending 31 August 2005. He said he had not been paid his holiday pay. That payslip shows that 6 days annual leave is outstanding. The employment terminated on 23 September so Mr Twagirimana is also owed holiday pay for that period of employment. His earnings up till 31 August were \$6594.50. The additional period of employment takes his earnings up to \$8,002.50. Six per cent of that is \$480.15.

The respondent is to pay \$480.15 to the applicant plus interest at the rate of 9%. The interest is to run from 25 September 2005 until payment is made in full.

The respondent is to pay the applicant's filing fee of \$70 in addition to the holiday pay and interest on the holiday pay.

Dzintra King
Member of Employment Relations Authority