

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2014] NZERA Auckland 254  
5461276

BETWEEN

MINOU VAN VLIET  
Applicant

A N D

AMPHIBIANS SWIMMING  
ACADEMY LIMITED  
Respondent

Member of Authority: Rachel Larmer

Representatives: Applicant in person  
No appearance for Respondent

Investigation Meeting: 18 June 2014 at Auckland

Date of Determination: 23 June 2014

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**SECOND DETERMINATION OF THE AUTHORITY**

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- A. In addition to the amounts awarded in determination [2014] NZERA Auckland 245, within 28 days of the date of this determination, Amphibians Swimming Academy Limited is ordered to pay Ms van Viet \$487.28 being unpaid holiday pay on the wages she received whilst employed.**

**Employment relationship problem**

[1] This determination is to be read together with the Authority's determination in *Minou v Amphibians Swimming Academy Limited*<sup>1</sup> issued on 18 June 2014 ("the first determination"). In the first determination Ms van Vliet was awarded \$222.96 unpaid holiday pay on the \$1,257 wage arrears she should have been paid whilst employed and the \$1,530 notice she should have been paid upon termination. The holiday pay

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<sup>1</sup> [2014] NZEAR Auckland 245.

awarded in the first determination was calculated as 8% of \$2,787 being the total of her wage arrears.

[2] It has come to the Authority's attention that Ms van Vliet's claim for unpaid holiday pay on the earnings she actually received whilst employed has not yet been determined. This was a claim she raised in her Statement of Problem and which she gave evidence about during the Authority's investigation meeting on 18 June 2014. It is therefore necessary to determine that aspect of her claim which I do in this second determination.

[3] Ms van Vliet's Inland Revenue Department print out of her earnings from Amphibians Swimming School Limited (Amphibians) shows she received earnings of \$6,091. Ms van Vliet should have been paid holiday pay on this amount when her employment ended but that did not occur.

[4] Ms van Vliet did not take any paid holiday whilst employed so she is entitled to be paid 8% of her total gross earnings whilst employed. She has already been awarded a part of that entitlement in the first determination which relates to holiday pay on earnings she was entitled to but did not actually receive (i.e. the wage arrears aspect of her claim only).

[5] I now fix the amount of holiday pay Ms van Vliet should have received on the portion of her wages that she actually received while employed. Amphibians is ordered to pay Ms van Vliet (in addition to the amounts already awarded in first determination) \$487.28 additional unpaid holiday pay being 8% of the total she was actually paid (i.e. received) as wages whilst employed.

[6] Amphibians is ordered to pay Ms van Vliet the \$487.28 she has been awarded within 28 days of this determination.

**Rachel Larmer**  
**Member of the Employment Relations Authority**