

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**AA 168/09
5159048**

BETWEEN ELISABETH ANN VICKERS
Applicant

AND CHRISTOPHER JOHN PECK

 PECKS COTTAGE BAKERIES
 LIMITED
 Respondents

Member of Authority: Leon Robinson

Representatives: Applicant In Person
 No appearance for Respondents

Investigation Meeting: 26 May 2009

Determination: 26 May 2009

DETERMINATION OF THE AUTHORITY

The problem

[1] The applicant Ms Elisabeth Ann Vickers (“Ms Vickers”) claims arrears of wages and holiday pay from her former employer.

[2] The respondents did not take steps to defend Ms Vickers’ claim and did not attend the investigation meeting today. Having failed to lodge a statement in reply, the matter is undefended. However, I directed that a Notice of Investigation Meeting was to be served on the respondents giving notice of the investigation meeting today and inviting the respondents to seek leave to defend the matter out of time. The respondents have not sought leave and the matter remains undefended. Consequently, Ms Vickers’ sworn evidence is unchallenged.

The facts

[3] Ms Vickers was employed as a shop assistant at Cottage Bakeries in Glen Eden, Auckland. She commenced that employment in or about late April 2008. The terms of the employment were not recorded in a written individual employment agreement.

[4] Ms Vickers maintains her employer was Mr Peck personally. I have sighted a wage slip and a cheque which are endorsed in the name of “Cottage Bakeries” and “Pecks Cottage Bakeries Limited” respectively. Ms Vickers does not persuade me she was personally employed by Mr Peck and so I find that she was employed by the limited liability company Pecks Cottage Bakeries Limited. I further find that at all material times Mr Peck was acting as agent of that limited liability company.

[5] The employment came to an end in July 2008. Ms Vickers was provided with a cheque in the sum of \$243.22 drawn by Pecks Cottage Bakeries Limited and being her final wages and holiday pay entitlement owing at termination.

[6] The cheque was referred back to Ms Vickers by her bank advisedly because payment had been “stopped”.

The merits

[7] I am satisfied that the stopped cheque is evidence that Ms Vickers is owed arrears of wages and holiday pay by Pecks Cottage Bakeries Limited.

The determination

[8] I determine that Ms Vickers is owed arrears of wages and holiday pay in the sum of \$243.22. **I order Pecks Cottage Bakeries Limited to pay to Elisabeth Ann Vickers the gross sum of \$243.22 being arrears of wages and holiday pay.**

The costs

[9] Ms Vickers is entitled to have her lodgement fee on this application reimbursed to her. **I order Pecks Cottage Bakeries Limited to pay to Elisabeth Ann Vickers the sum of \$70.00 as reimbursement of the lodgement fee.**

Leon Robinson
Member of Employment Relations Authority