

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Geoffrey Watt (Applicant)
AND RD Managh Limited t/a Odin's Marine (Respondent)
REPRESENTATIVES David Bruce for Applicant
Danny Jacobsen for Respondent
MEMBER OF AUTHORITY Marija Urlich
DATE OF DETERMINATION 13 February 2007

SUPPLEMENTARY DETERMINATION OF THE AUTHORITY

[1] In a determination dated 11 April 2006 (AA 123/06) Mr Watts was awarded lost wages of \$3,240.00 (gross) for the period 7 March 2005 to 1 June 2005.

[2] Following a reopening application filed by the respondent a determination dated 1 November 2006 (AA123A/06) reduced that award of lost wages as follows:

[6] Mr Watt claimed reimbursement of actual lost wages totalling \$6480 (gross). Mr Watt earned \$432 (gross) in wages during the period for which he was awarded lost wages. Mr Watt did not tell the Authority that he earned \$432 (gross) during the investigation meeting. This information was within Mr Watt's knowledge and was relevant to the claim. No more than what was lost can be claimed. **\$432 (gross) is to be deducted from the total lost wages claimed.**

[7] Mr Watt received ACC entitlements from 19 April 2005 until 12 May 2005 totalling \$1036.80 (gross). These payments relate to the injury he sustained during his employment with AJ and LR Arnet. Again, this information was not put before the Authority, was within Mr Watt's knowledge and was clearly relevant to his claim for lost wages. I do not accept Mr Bruce's submission that an ACC entitlement should be treated as a WINZ benefit, that is recoverable from any award of damages. Mr Watt received the ACC entitlement because he was unable to work and was compensated accordingly. It follows that this period cannot form part of the claim period for reimbursement of lost wages because Mr Watt was not available to work and has already been compensated for that period of loss. **The period of 19 April 2005 to 12 May 2005 should be removed from the claim period and I so order.**

[3] Mr Watt has requested a certificate of determination.

[4] The wages awarded him total **\$864 (gross)**¹.

Marija Urlich
Member of Employment Relations Authority

¹ \$3,240.00 - \$432 - \$1944 (18 working days (19 April 2005 – 12 May 2005) @ \$108 per day) = \$864 (gross)