

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2011] NZERA Christchurch 83
5340687

BETWEEN BRUNO ZAHNER
 Applicant

AND WILSON PRINT LIMITED
 Respondent

Member of Authority: Philip Cheyne

Representatives: Bruno Zahner, the Applicant in person
 No appearance for Respondent

Investigation Meeting: 13 June 2011 at Christchurch

Determination: 15 June 2011

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Bruno Zahner worked for Wilson Print Limited but gave notice of resignation and finished worked on Tuesday 8 February 2011. Mr Zahner says that he was not paid his final pay, being two days salary plus holiday pay.

[2] Wilson Print Limited has not lodged a statement in reply.

No appearance by Respondent

[3] When no statement in reply was received the Authority's support officer contacted the respondent's director Laurie Dempsey. He claimed to know nothing of Mr Zahner's claim despite the three emails sent by Mr Zahner, the letter from his solicitor and the correspondence from the Authority.

[4] Despite that contact, the matter was not resolved nor was a reply lodged with the Authority.

[5] I am satisfied that the notice of investigation meeting along with directions about the investigation meeting and a copy of the statement of problem were served on Mr Dempsey for the respondent.

[6] There was no appearance for the respondent at the investigation meeting this morning. There being no good reason for that non-appearance I determined to continue with the meeting.

Arrears

[7] Mr Zahner took an affirmation and gave evidence none of which there is any reason to doubt.

[8] Mr Zahner gave notice of his resignation. His last two days of work fell in a new pay period. Mr Zahner received his salary for his work in the preceding pay period as usual by direct credit in to his bank account, but he has not received his last two days' salary or his holiday pay.

[9] The salary owed to Mr Zahner is \$415.38. He is entitled to holiday pay on that sum, a further \$33.23. That gives a total of \$448.61.

[10] Mr Zahner should also have received his employer's Kiwisaver contribution amounting to \$8.31.

[11] Mr Zahner's payslip shows 12 days holiday pay owing. That amounts to \$2,492.31.

Orders

[12] Wilson Print Limited is to pay Mr Zahner arrears of wages and holiday pay totalling \$2,940.92 (gross).

[13] Wilson Print Limited is to pay to Mr Zahner's Kiwisaver account the employer's contribution of \$8.31.

[14] Mr Zahner seeks interest on the arrears. Wilson Print Limited is to pay Mr Zahner interest on the two sums mentioned above at the rate set by the Judicature (Prescribed Rate of Interest) Order 2008 of 8.4% commencing on 9 February 2011 until the arrears are paid in full.

[15] Mr Zahner seeks costs. Wilson Print is to reimburse Mr Zahner \$157.81 for his lodgement fee and his legal costs.

Final comment

[16] It is probably fortunate for Wilson Print Limited that Mr Zahner mostly represented himself and did not think to claim a penalty for the breach of his employment agreement.

[17] I note that the Authority now has jurisdiction under s.134A of the Act of its own motion to impose a penalty of up to \$20,000.00 where a company, without sufficient cause, obstructs or delays an Authority investigation meeting, including failing to attend as a party before an Authority investigation. If I was going to consider such a penalty here I would need to adjourn and give Wilson Print Limited an opportunity to comment. The better course is to bring this matter to an end on the expectation that Wilson Print Limited will now comply with its legal obligations to Mr Zahner.

Philip Cheyne
Member of the Employment Relations Authority