

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Agnieszka Kruk-Omenzetter (First Applicant)
AND Tony Perdiga (Second Applicant)
AND Claire Murray (Third Applicant)
AND Gavin Jolliffe (Fourth Applicant)

AND New Zealand Ocean English College Limited(Respondent)

REPRESENTATIVES Gavin Joliffe, Advocate for Applicants
Nong Li, Advocate for Respondent

MEMBER OF AUTHORITY R A Monaghan

INVESTIGATION MEETING 24 August 2005

DATE OF DETERMINATION 24 August 2005

DETERMINATION OF THE AUTHORITY

[1] Agnieszka Kruk-Omenzetter, Tony Perdiga, Claire Murray and Gavin Joliffe were employees on the academic staff of New Zealand Ocean English College Limited (“the College”).

[2] On or about 15 April 2005 they reported to work to find that the doors were closed. The College had been in financial difficulty for some time, and could not continue to operate. It has not resumed its operation.

[3] The four former employees who have brought this employment relationship problem say they are owed outstanding holiday pay, and one month’s pay in lieu of notice of redundancy under their employment agreements. The amounts they say are owing are quantified as follows:

(a) Agnieszka Kruk-Omenzetter
Pay in lieu of notice: \$2,616.00
Holiday pay: \$ 588.00
Total: \$3,204.00

(b) Tony Perdiga
Pay in lieu of notice: \$3,232.00
Holiday pay: \$ 727.20
Total: \$3,959.20

(c) Claire Murray
Pay in lieu of notice: \$2,616.00
Holiday pay: \$ 588.00
Total: \$3,204.00

(d) Gavin Joliffe

Pay in lieu of notice:	\$2,616.00
Holiday pay:	\$ 588.00
Total:	\$3,204.00

[4] Nong Li is the sole director of the College. He says he does not dispute that the employees are owed the money they say they are owed. Instead he says the College is unable to pay.

[5] I explained to the parties during a conference call that, if there was no dispute about liability or quantum, there would be no need for further investigation and an order for payment could be issued. I advised Mr Joliffe, on behalf of the employees, that the enforcement of the order would be another matter. At present, that matter is not before the Authority.

[6] Accordingly, As Mr Li has since confirmed there is no dispute about liability or quantum, the College is ordered to pay to each of the employees named in [3] above the monies identified in that paragraph.

Costs

[7] The employees are entitled to the reimbursement of the filing fee of \$70. I make a further order accordingly.

R A Monaghan
Member, Employment Relations Authority