

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Lisa Anne Grindlay (Applicant)

AND Allure Rosebud Florist Limited t/a Allure Rosebud Florist
(Respondent)

REPRESENTATIVES Lisa Anne Grindlay, in person
No appearance for Respondent

MEMBER OF AUTHORITY Vicki Campbell

INVESTIGATION MEETING 22 March 2005

DATE OF DETERMINATION 23 March 2005

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

- [1] Ms Grindlay claims \$450.80 as arrears of wages and a further \$405.00 in holiday pay which Ms Grindlay says was not paid to her.
- [2] Mr Brownlees for Allure Rosebud Florist Limited t/a Allure Rosebud Florist (“Allure”), says the money cannot be paid as the business is no longer trading. On 2 March 2003 Mr Brownlees contacted the Authority and advised he was unlikely to appear at the investigation meeting. Mr Brownlees was advised of the consequences of non-attendance. Mr Brownlees did not attend the investigation meeting on 22 March 2005.
- [3] I considered the matter in terms of Clause 12 of Schedule 2 of the Employment Relations Act 2000. That clause allows the Authority to proceed in the absence of a party if it is absent without good cause.
- [4] I am satisfied that Allure Rosebud Florist has been properly served the Notice of Investigation Meeting. As at the date of the investigation meeting Mainly Flowers Limited t/a Allure Rosebud Florist was registered as a company on the Companies Register. I am also satisfied that Allure Rosebud Florist have shown no good cause to be absent from the investigation meeting. I have therefore acted in this matter as if Allure Rosebud Florist had attended or been represented at the investigation meeting.
- [5] The issues to be decided are whether:
- Ms Grindlay is owed wages; and
 - Ms Grindlay is owed holiday pay.

Is Ms Grindlay owed wages?

- [6] Ms Grindlay was employed by Allure Rosebud Florist from 3 May 2004 until 20 August 2004. There was no written employment agreement between the parties.
- [7] Ms Grindlay was paid her first two weeks wages in cash. From 27 May 2004 Allure Rosebud Florist paid Ms Grindlay by direct credit to her bank account. Ms Grindlay provided copies of her bank statements which show she was paid \$450.80 net per week
- [8] The bank statements show that Ms Grindlay was paid \$450.80 on 19 August 2004. The statements also show \$450.80 being deducted from her account after Allure Rosebud Florist defaulted on the payment.

I am satisfied on the balance of probabilities that Mainly Flowers Limited t/a Allure Rosebud Florist owes Ms Grindlay \$450.80 net unpaid wages. I order Mainly Flowers Limited t/a Allure Rosebud Florist to pay this amount to Ms Grindlay.

Is Ms Grindlay owed holiday pay?

- [9] Ms Grindlay says she has never received payment for holidays and neither did she take any holidays on pay while employed by Allure Rosebud Florist.
- [10] During her employment Ms Grindlay received gross wages of \$5,860.40 which is the sum of 13 payments of \$450.80. In addition to that amount Ms Grindlay should have received the \$450.80 as ordered above. I have only been able to work on net income figures and not gross earnings figures. As she never received any pay slips or other notification regarding the make up of her wages Ms Grindlay is not aware what her gross earnings are.
- [11] On the figures supplied to me at the investigation meeting I have calculated the holiday pay due as a net amount of \$378.67. This figure is 6% of Ms Grindlay's net earnings.

I am satisfied on the balance of probabilities that Mainly Flowers Limited t/a Allure Rosebud Florist owes Ms Grindlay \$378.67 net as holiday pay. I order Mainly Flowers Limited t/a Allure Rosebud Florist to pay this amount to Ms Grindlay.

Costs

- [12] Although she was not legally represented Ms Grindlay is entitled to recover the cost of filing her application with the Authority.

Mainly Flowers Limited t/a Allure Rosebud Florist is ordered to pay Ms Grindlay \$70.00 being the reimbursement of her filing fee.

Summary of orders

- [13] Mainly Flowers Limited t/a Allure Rosebud Florist is ordered to pay to Ms Grindlay the following amounts:

- \$450.80 net unpaid wages;
- \$378.67 net as holiday pay;
- \$70.00 costs.

[14] Ms Grindlay is to serve a copy of this determination on Mainly Flowers Limited t/a Allure Rosebud Florist forthwith.

Vicki Campbell
Member of Employment Relations Authority