

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
OFFICE**

BETWEEN Kris Michael Metcalf, Labour Inspector

AND Jag Deo Lal t/a Jag Lal Lawyers

REPRESENTATIVES Labour Inspector, in person
Jag Deo Lal, in person

MEMBER OF AUTHORITY Rosemary Monaghan

INVESTIGATION MEETING 10 October 2006
DATE OF DETERMINATION 10 October 2006

DETERMINATION OF THE AUTHORITY

[1] Kris Metcalf, Labour Inspector, seeks an order for the payment of unpaid holiday pay owed to Shilpa Parab-Jenkins.

[2] Ms Parab-Jenkins was an employee of Jag Lal from 7 November 2003 to 6 May 2005. She received the substantial majority of her entitlement to paid leave in respect of the first 12 months of her employment but did not receive payment in respect of her unused entitlement for that year, or for the unused entitlement in the second part-year of her employment.

[3] The parties have agreed the sum of \$918.49 is owed. Accordingly Mr Lal is ordered to pay that amount to Ms Parab-Jenkins, together with interest from 6 May 2005 to the date of payment calculated at 7.7% per annum under clause 11 Schedule 3 of the Employment Relations Act 2000.

Penalty

[4] A penalty was sought in respect of the failure to pay holiday pay, but Mr Lal indicated he is impecunious. It also appears an attempt was made to resolve the matter of Ms Parab-Jenkins' unpaid holiday pay, but the parties were unable to agree on the amount owed.

[5] While the failure to pay monies owed to an employee is a serious matter, in the present circumstances I do not believe a penalty is warranted.

Costs

[6] Mr Lal is ordered to reimburse Ms Parab-Jenkins for the filing fee of \$70.

Rosemary Monaghan
Member of Employment Relations Authority