

Determination Number: WA 54/06

File Number: WEA 5030228

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON OFFICE**

<b>BETWEEN</b>	Steve Bedford, Kelvin Haua, Angus Jamieson, Melanie Rees & Lance Tredrea (applicants)
<b>AND</b>	Hutt Electrical Service Co. Limited (respondent)
<b>REPRESENTATIVES</b>	Melanie Rees represented herself and the other applicants No appearance by or for the respondent
<b>MEMBER OF THE AUTHORITY</b>	Denis Asher
<b>INVESTIGATION</b>	Wellington, 10 April 2006
<b>DATE OF DETERMINATION</b>	10 April 2006

**ORAL DETERMINATION OF AUTHORITY**

**Employment Relationship Problem**

1. The applicants all claim varying amounts of unpaid wages and holiday pay owed to them – statement of problem received on 8 February 2006

2. No statement of reply has been received from the Company despite telephone assurances from the respondent's sole director, Mr Eric Van Ree, to Authority support staff on 27 February & 13 March that he was in the process of completing a statement.
3. The parties have not undertaken mediation in respect of this employment relationship problem.
4. During a telephone conference on 17 March with one of the applicant's, Ms Melanie Rees, who has represented herself and the other applicants from the outset, it was agreed that this problem would be investigated by the Authority on Monday 10 April 2006: despite his earlier agreement to participate in the conference, at the time Mr Van Ree did not make himself available. I therefore determined it was inappropriate to direct the parties to mediation, but that – in all the circumstances – it was appropriate to proceed to set this matter down for an investigation: ss. 159 & 160 of the Act applied.
5. Notices of the investigation meeting were sent, per the details set out in the NZ Companies Office record as at 17 March 2006, to the Company's physical address, to Mr Van Ree and to the Company's registered office and address for service: one of the notices sent out was signed off as received by "*Eric Van Ree*" (Track & Trace confirmation held by the Authority).
6. Because Authority support staff spoke with Mr Van Ree about these proceedings, and because of notice of the investigation being properly served, and because of Mr Van Ree's signature confirming receipt of the relevant notice, I was satisfied it was appropriate for the Authority to proceed to investigate and determine this matter.

### **Background and Applicants' Position**

7. The respondent is an electrical contracting company: its principal contracts were for the maintenance of street lighting for the Hutt and Porirua City Councils. Kelvin Haua was employed by the respondent as the civils supervisor, Steve Bedford as an electrician, Angus Jamieson as a civils & street lighting assistant, Ms Rees as the administration manager, and Lance Tredrea as a street lighting assistant.

8. In their statement of problem, the applicants explain that, from Monday 21 November 2005 they began to have serious concerns about the payment of their wages. They unsuccessfully sought a meeting with Mr Van Ree. On the following day Mr Van Ree advised Ms Rees that wages would not be paid that day. A staff meeting followed later that day. On Wednesday 23 November wages had still not been deposited into the applicants' bank accounts. A further staff meeting occurred with Mr Van Ree. Unhappy with his answers and his inability to assure them about their unpaid wages the applicants resolved to resign and depart the work place.
9. Efforts to contact Mr Van Ree about the unpaid wages proved fruitless.
10. The applicants say that, as at 23 November 2005, they are all owed one and 1/2 weeks' unpaid wages and varying amounts of holiday pay, namely:

Steve Bedford:       unpaid wages of \$1,140 gross  
                              holiday pay of \$228 gross

Kelvin Haua           unpaid wages of \$1,080 gross  
                              holiday pay of \$2,736 gross

Angus Jamieson       unpaid wages of \$900 gross  
                              holiday pay of \$1,872

Melanie Rees         unpaid wages of \$1,290 gross  
                              holiday pay of \$3,512.73 gross

Lance Tredrea         unpaid wages of \$1,140 gross  
                              holiday pay of \$2,736

## **Discussion and Findings**

11. I was satisfied from the uncontested evidence provided by the applicants, and in particular that of Ms Rees under affirmation at today's investigation, to determine orally that the applicants had successfully made out their claims for unpaid wages and holiday pay, as set out in par 10 above, and for their filing fee.

**Determination**

12. For the reasons set out above, I find for the applicants' claims for unpaid wages and holiday pay against the respondent, Hutt Electrical Service Co. Limited, and direct the respondent to pay the following sums to the applicants:

Steve Bedford: unpaid wages of \$1,140 (one thousand, one hundred and forty dollars) gross, and holiday pay of \$228 (two hundred and twenty eight dollars) gross

Kelvin Haua unpaid wages of \$1,080 (one thousand and eighty dollars) gross and holiday pay of \$2,736 (two thousand, seven hundred and thirty six dollars) gross

Angus Jamieson unpaid wages of \$900 (nine hundred dollars) gross and holiday pay of \$1,872 (one thousand, eight hundred and seventy two dollars) gross

Melanie Rees unpaid wages of \$1,290 (one thousand, two hundred and ninety dollars) gross and holiday pay of \$3,512.73 (three thousand, five hundred and twelve dollars and seventy three cents) gross

Lance Tredrea unpaid wages of \$1,140 (one thousand, one hundred and forty dollars) gross and holiday pay of \$2,736 (two thousand, seven hundred and thirty six dollars) gross

13. I also find that the applicants are entitled to recover from the respondent their filing fee of \$70 (seventy dollars).

**Denis Asher**

**Member of Employment Relations Authority**