

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Labour Inspector (Henning) (Applicant)
AND Danseys Pass Coach Inn Limited (Respondent)
REPRESENTATIVES Unknown
Unknown
MEMBER OF AUTHORITY James Crichton
INVESTIGATION MEETING 31 May 2006
DATE OF DETERMINATION 31 May 2006

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant Labour Inspector (Mr Henning) alleges that the respondent, Danseys Pass Coach Inn Limited (the employer) has failed to comply with a demand notice served on him pursuant to s.224 of the Employment Relations Act 2000.

[2] The Authority is asked to make a compliance order under s.137 of the Act to enforce the terms of the demand notice.

[3] The demand notice was served on the employer on 27 January 2006 and no objection had been lodged with the Authority within the requisite time in terms of the right so to do under s.225 of the Act.

[4] When the application of Mr Henning came before the Authority, I instructed the parties to make themselves available by way of telephone conference in the hope of encouraging the employer to meet its obligations in a voluntary way. Despite the Senior Support Officer of the Authority writing to the employer in the clearest terms as to the arrangements made for the telephone conference, the employer neither contacted the Authority to alter the arrangement nor make itself available to participate in the telephone conference.

[5] This was so notwithstanding the fact that a Director of the employer spoke to the Senior Support Officer of the Authority by telephone, confirmed that money was owed, alleged problems with a fellow Director and proposed payment by instalments.

[6] Where, as in this case, no object to the demand notice is lodged with the Authority, then, in terms of s.225(4) of the Act, the demand notice imposes a legal requirement on the employer to comply with it and is *prima facie* evidence that the money now specified in the demand notice is owed by the employer to the employee.

Determination

[7] I am satisfied that the demand notice was properly served on the employer on 27 January 2006 and that the employer had the appropriate information available to it in order to decide whether or not to lodge an objection to that demand notice, and that the time for that objection to be lodged has now passed. The employer did not in fact lodge an objection to the demand notice within time and the sum specified in the demand notice, being the sum of \$730.72 gross of holiday pay owed to Peter Watson, and a sum of \$730.72 gross of holiday pay owed to Cherie Allison, has not been paid.

[8] As the employer has not exercised its right to object in this particular matter, nor has it met its obligations by paying the sums referred to in the demand notice, I direct that the employer is to comply with the demand notice dated 17 January 2006 by paying to the Labour Inspectorate, PO Box 5510, Dunedin, for the attention of Mr Henning, a total sum of \$1,461.44. That payment is to be made within 14 days of the date of this Determination. Mr Henning is directed to ensure that half of that payment is made available directly and without deduction to Peter Watson and the other half is made available directly and without deduction to Cherie Allison, whose entitlements those payments are.

Costs

[9] Costs will lie where they fall.

James Crichton
Member of Employment Relations Authority