



[3] During a conference call with the parties convened by the Authority on 19<sup>th</sup> May 2010, Mr Robson, for the Company, agreed that the sum due under the Minimum Wages Act (\$2,728.45) would be paid to the Labour Inspector for the use of Mr Trevithick. However, Mr Robson disputed that the sum of \$3,839.19 was reasonably due. While in normal circumstances, given that Mr Robson had not lodged with the Authority an objection to the demand notice within the 28 days required, and in the absence a compelling reason not to do so, a compliance order would follow. However, it seemed to me that there were some issues that required further exploration, hence pursuant to the equity and good conscience jurisdiction of the Authority and section 227 of the Act, the Labour Inspector was directed to withdraw the demand notice and the parties were directed to attend mediation to engage further on the matters that Mr Robson had raised.

[4] Unfortunately, the parties were unable to resolve matters in mediation and on 15<sup>th</sup> June 2010, the Labour Inspector reissued the demand notice, for the lesser sum of \$3,839.19, as permitted by section 227 of the Act. The Company raised some further objections regarding not receiving certain information following the mediation. The Labour Inspector provided further information to the Authority and this was forwarded by the Authority to Mr Robson on 26<sup>th</sup> July 2010, but no further response has been forthcoming from him

### **Determination**

[5] I am satisfied on the basis of the overall evidence available to the Authority that the demand notice issued to Frankton Mufflers & Brakes Limited, on 15<sup>th</sup> June 2010, was issued by the Labour Inspector on the basis that there are reasonable grounds for believing that Mr Kerry John Trevithick has not received his due entitlements under the Holidays Act 2003. Therefore, pursuant to section 137(1)(a)(iv) of the Employment Relations Act 2000, Frankton Mufflers and Brakes Limited is ordered to comply with the demand notice and pay to the Labour Inspector, for the use of Mr Trevithick, the gross sum of **\$3,839.19**, by not later than 20<sup>th</sup> November 2010.

**K J Anderson**  
**Member of the Employment Relations Authority**

