

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 489/10
5318293

BETWEEN KERRI AHOMIRO (LABOUR
INSPECTOR)
Applicant

AND TOP HALF FURNITURE 2006
LIMITED
Respondent

Member of Authority: Dzintra King

Representatives: Applicant in Person
 Charmaine Whitehead, Advocate for Respondent

Investigation Meeting: 18 November 2010 at Whangarei

Determination: 19 November 2010

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Mr Larz Cherrington and Mr Kohai Kingi were employees of the respondent, Top Half Furniture 2006 Limited.

[2] Neither employee received holiday pay when their employment terminated. Mr Cherrington is owed \$1,431.92 and Mr Kingi is owed \$4,561.92. Mr Cherrington's employment finished on 23 December 2009 and Mr Kingi's on 28 June 2010.

[3] The employees approached the Department of Labour and Ms Kerri Ahomiro, a Labour Inspector, investigated their claims regarding unpaid holiday pay.

[4] There were no written employment agreements.

[5] In the course of communication with Mr Richard Whitehead, the director of the respondent, Ms Ahomiro informed him that if he was unable to make payment in full he was to contact her to discuss settlement. This did not occur.

[6] Mr Whitehead did not file a Statement in Reply.

[7] On the morning of the hearing Mr Whitehead sent his sister to the hearing together with a note. I explained that I could not deal with the matters asserted in that note in the absence of evidence from Mr Whitehead and in the absence of a counterclaim having been filed.

[8] I am satisfied that the calculations made by the Labour Inspector are accurate.

[9] The respondent is to pay the following amounts:

- \$1,431.92 to Mr Cherrington
- \$4,561.92 to Mr Kingi
- Interest on the above amounts at the rate of 5.17 %, the interest to run from the dates of termination of employment (23 December 2009 for Mr. Cherrington and 28 June 2010 for Mr Kingi) until such time as the amounts of holiday pay owed are paid in full.

[10] The claim for a penalty was withdrawn.

[11] Ms Ahomiro sought payment of the filing fee of \$70. This is to be reimbursed to the Labour Inspector.

Dzintra King

Member of the Employment Relations Authority