

[3] No further submissions were requested by the Authority as none are required to establish the facts of the matter and give a determination. The position is indeed quite straightforward.

[4] The evidence before the Authority discloses that Forme Spa inadvertently re-added Ms Greig to its payroll schedule and incorrectly uploaded a payment to her on 24 April 2012.

[5] Forme Spa has told the Authority (and it accepts) that numerous attempts have been made by Forme Spa to contact Ms Greig but to no avail. These attempts include via email, cellphone, Facebook and personal approaches to her new employer, all to no avail. By letter dated 18 July 2012, Forme Spa advised Ms Greig that the matter was now in the hands of Baycorp.

[6] Ms Greig maintains that as her personal contact details have not changed in over 12 years she finds it very strange that Forme Spa is having difficulty making contact with her. That statement does not explain why she failed to respond to five telephone messages, a Facebook posting or an approach made to her current employer.

[7] Furthermore, the suggestion that Ms Greig makes that, given that she is no longer employed by Forme Spa, money deposited into her account by Forme Spa is clearly there "*voluntarily*", is no more than fanciful nonsense.

[8] The very fact that the money has been placed into her account five months after the employment ceased should put her on notice that she is not entitled to retain the money. Any reasonable person looking at the facts of the matter would conclude that, because the employment relationship had concluded five months before, money placed into the account was not there voluntarily, as Ms Greig claims, but by mistake and that Ms Greig had no right to retain it.

Determination

[9] The Authority is absolutely satisfied that Forme Spa is entitled to a determination that Ms Greig has improperly retained moneys belonging to Forme Spa and that she is to return that money to Forme Spa forthwith. It is plain that Forme Spa made an error in lodging the funds to Ms Greig's account long after the employment

ceased, and that it has used its best endeavours since to have Ms Greig repay the moneys in question.

[10] Ms Greig is directed to repay to Forme Spa the sum of \$1,366.95 forthwith.

[11] A certificate of determination is to be issued as well.

Costs

[12] There is no issue as to costs in this matter.

James Crichton
Member of the Employment Relations Authority