

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 438
5426183

BETWEEN GAVY GAVINDER GREWAL
Applicant

A N D CORPORATE PROTECTION
AND SECURITY
INTERNATIONAL LIMITED
Respondent

Member of Authority: Rachel Larmer
Representatives: Applicant in person
No appearance by Respondent
Investigation Meeting: 25 September 2013 at Auckland
Date of Determination: 25 September 2013

DETERMINATION OF THE AUTHORITY

A. Corporate Protection and Security International Limited (“Corporate Protection”) is ordered within 28 days of the date of this determination to pay Mr Gavy Grewal:

- (i) \$2,414 wage arrears;**
- (ii) \$207.12 unpaid annual holiday pay;**
- (iii) 71.56 to reimburse his filing fee.**

Employment relationship problem

[1] Mr Grewal worked for Corporate Protection between 04 May and 03 June 2013 as a security guard. Corporate Protection breached s.65 of the Employment Relations Act 2000 (the Act) because it failed to provide Mr Grewal with a written employment agreement.

[2] Mr Grewal says Mr Sean Michaels (one of Corporate Protection's two directors) told him at the beginning of his employment that he would be paid \$17 per hour. Mr Grewal only received one payment of \$175 cash which was paid to him on 04 June 2013.

[3] Mr Grewal says he worked 142 hours which he has still not yet been paid for. Mr Grewal says he decided not to continue working for Corporate Protection after it failed to pay him for the hours he worked. Mr Grewal claims wage arrears of \$2,414 (being \$17 per hour x 142 hours).

Mediation

[4] Corporate Protection did not respond to Mr Grewal's request before he filed proceedings with the Authority that it agree to attend mediation over his wage arrears claim. Despite being directed to attend mediation the parties did not do so. Mediation Services advises the Authority mediation did not occur because Corporate Protection did not respond to its attempts to contact it to arrange mediation. Mediation Services' messages to Corporate Protection were apparently not returned.

No appearance by respondent

[5] Corporate Protection did not attend the Authority's investigation meeting today.

No Statement in Reply

[6] Corporate Protection did not file a Statement in Reply. Mr Grewal's Statement of Problem was served on Corporate Protection at the address for service recorded on the Companies Office website. Service occurred by track and trace courier on 22 July 2013 which was signed for by M Togiamana.

[7] The Authority wrote to Corporate Protection on 06 August advising that because it had not filed a Statement in Reply within 14 days it was required to apply for leave to defend the matter and it was given extra time until 09 August to file a Statement in Reply. No response was received.

[8] On 13 August the Authority directed the parties to attend mediation by 30 August. Corporate Protection was again advised it had to apply for leave to defend

the matter and The Authority set out what was required if it wanted to seek leave. It was given 7 days to file any leave application.

[9] On 13 August Corporate Protection was directed to provide a copy of Mr Grewal's wage and time records and holiday and leave records regardless of whether or not it intended to defend his wage arrears claim. That did not occur.

[10] On 30 August the Authority wrote to Corporate Protection repeating its direction that it provide Mr Grewal's wage and time records and leave and holiday records. It was also reminded that it had to apply for leave to file a Statement in Reply out of time if it wished to defend the matter. The requirements of a leave application were set out. This correspondence was served on Corporate Protection on 02 September.

[11] The investigation meeting was scheduled and the Notice of Hearing was served on both parties by track and trace courier. It was signed for by Mr Michaels on 03 September.

[12] Mr Michaels emailed the Authority on 03 September saying among other things "*I won't pay him [the applicant] a single cent.*"

[13] The Authority emailed the parties that same day advising that if Corporate Protection wanted to defend the matter it had to apply for leave to file its Statement in Reply out of time before 3pm 06 September. The requirements of a leave application were set out and it was noted that leave would be unlikely to be granted if these requirements were not complied with. Corporate Protection did not respond.

[14] No leave application has been made. Corporate Protection has also failed to comply with any of the Authority's directions.

Is Mr Grewal owed wage arrears?

[15] Under s.132(2) of the Act Corporate Protection's failure to provide Mr Grewal's wage and time records means I may accept as proved all claims Mr Grewal has made in respect of the wages actually paid to him and the hours, days, and time worked by him.

[16] Mr Grewal also produced to the Authority numerous text messages which support his wage arrears claim. In his texts to Corporate Protection he sets out the

days and hours he had worked and the work he had undertaken. It is clear that he has advised Corporate Protection numerous times of the hours he has worked but is yet to be paid for.

[17] Mr Grewal also produced text messages from Mr Micheals confirming that Mr Grewal was going to be paid; Mr Grewal's wages had been paid, Corporate Protection's accountant had been instructed to pay Mr Grewal his wages; and Mr Grewal's wages had been deposited into his bank account. All of these reassurances did not come to anything as Mr Grewal has still not been paid.

[18] I find Mr Grewal has proven his wages arrears claim because he has not been paid for 142 hours he worked.

[19] Corporate Protection is ordered within 28 days of the date of this determination to pay Mr Grewal:

- a. \$2,414 wage arrears (being \$17 per hour x 142 hours);
- b. \$207.12 unpaid holiday pay (being 8% of his total gross earnings of \$2,589 (i.e. \$175 + \$2,414));
- c. \$71.56 to reimburse his filing fee.

Rachel Larmer
Member of the Employment Relations Authority