

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 465
5457716

BETWEEN REPEKA AIGA
Applicant

AND METICULOUS HOME SERVICES
(NZ) LIMITED t/a METICULOUS
MAIDS
Respondent

Member of Authority: T G Tetitaha

Representatives: C Faumuina, Advocate for Applicant
B Henderson, Respondent's Representative

Submissions received: 3 November 2014 from Applicant
28 October 2014 from respondent

Date of Determination: 13 November 2014

DETERMINATION OF THE AUTHORITY

**A. The application by Repeka Aiga for personal grievance against
Meticulous Home Services (NZ) Limited is dismissed.**

Employment Relationship Problem

[1] On 28 April 2014 Ms Repeka Aiga has filed an application seeking, amongst other things, wage arrears from her alleged employers, Meticulous Maids, "Vivien Enter" and "Mr & Mrs Taylor". The accompanying documentation identified one of the Taylors to be a "Mrs Tejal Taylor". The matter was unable to be resolved at mediation and is before me for determination. A pre-hearing issue has arisen regarding who was Ms Aiga's employer.

Service of documentation

[2] The Authority attempted to serve the statement of problem at the address provided by Ms Aiga by courier post. It was returned.

[3] Ms Aiga was directed to personally serve the documentation. She filed a letter signed by Christina Faumuina stating:



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File No 5457716

Applicant: Repeka Aiga Respondent: Vivian Enter & Meticulous Maids

I am writing this letter in regards to your letter dated 2 May 2014 that I have to serve the respondent myself with the papers.

Papers were served on the 10th Tuesday [May] 2014 at 10.05 pm. Papers were given to Tejal Tailor. I put the papers in her hand she then walked inside reading them. We left/me and Repeka. We got into our car where Repeka's husband was waiting, we closed our doors and about to leave, the Taylors come running to the road try to open our doors (locked) so they put the papers on the windscreen of the car and both ran inside. I took Repeka with me to make sure I am giving the papers to her Employer or is it Employers. It was MR and MRS Taylors they both came to mediation at 280 Queen St Authority. Both Indians in their late 40s.

[4] Although this is not a sworn affidavit attesting to service, I have a discretion to take into account such evidence, whether strictly legal evidence or not (s160(2) Employment Relations Act 2000). The above letter confirms the date and time of service and the identity of Tejal Tailor. This would be sufficient to meet the requirements of service in any other jurisdiction. I also note this is a self-represented applicant assisted by her non-legally qualified whanau. In these circumstances, I exercise my discretion to admit this letter and determine service has been effected upon Tejal Tailor and Divyam Enterprises Limited pursuant to Regulation 16 Employment Relations Authority Regulations 2000.

Divyam Enterprises Limited

[5] At some stage in the application it was identified that the reference to the employer "Vivien Enter" was in fact to a company named Divyam Enterprises Limited. A companies search by the support officer revealed this company had two named directors, including Mrs Tejal Tailor. Unfortunately the company had also been struck off the companies register on 22 December 2011.



[6] Once a company is removed from the New Zealand Companies Registry, it ceases to exist¹. No legal proceedings may be brought against it². Any judgment entered by the Authority against a company that has already been removed from the Register is a nullity³. As a consequence, there is no corporate entity or respondent party against whom an order can be made.

[7] Ms Aiga was advised about Divyam Enterprises Limited by a Minute dated 22 July 2014. She was then directed to file an affidavit setting out the following details:

- (a) Who she believes was her employer if not Divyam Enterprises Limited? Please provide their names, addresses and contact telephone and email details;
- (b) The period of time covered by her wages claim i.e. the dates and times she worked?
- (c) The person/s she worked for during the above period?
- (d) Who paid her for the work she did?
- (e) How she was paid i.e. was it in cash or direct credit to a bank account? If direct credit to a bank account copies of her bank statements need to be provided as well.
- (f) How she was given work – was it ‘as and when required’ or every week? Was it always for the same people or different people?
- (g) Any other relevant information which identifies her employer.

Tejal Tailor

[8] On 12 August 2014 Ms Aiga provided a signed letter stating:

It is regrettable that companies operate like this and get away with it, and nothing being done about it. Companies franchise make their profits, and workers suffer, where is justice in that. Not registered companies?

I Repeka Aiga sworn an affidavit or statement on the following,

¹ s.15 Companies Act 1993

² *Deutsche Bank v. Banque des Marchands de Moscou* (1931) 158 LT 364

³ *Mayer v. Markjohn Mfg Ltd*, 28/6/94, Master Kennedy-Grant, HC Auckland CP433/87



1. *I worked for Meticulous Maids 0800662437 West Auckland address – 65A Farquhar Road Glendene Henderson hiren@meticulousmaids.co.nz.*
2. *Time covered – from 12 October 2012 – May 10th 2013.*
3. *The person Repeka Aiga worked for was Tejal Taylor of 5 Jubaea Place, Henderson – 8384854 m/021837803.*
4. *Tejal Taylor paid Repeka for the work she did.*
5. *Repeka was paid in cash in a Meticulous Maids envelope, with their logo name on it.*
6. *Repeka and another worker worked together and they were given work every week by word of mouth from different clients.*
7. *Tejal Taylor drives the company car with the name Meticulous Maids on it. Uniforms and when ring 0800662437 they answer Meticulous M. Repeka Aiga worked for Meticulous Maids – then was told the company has been sold to Devyan Enterprise Limited.*

Meticulous Home Services (NZ) Limited

[9] Despite sending the above signed letter, Ms Aiga then filed a further sworn affidavit attesting to a different employer, Meticulous Home Services Limited.

[10] On 12 September 2014, Ms Aiga filed a sworn affidavit attesting to a different employer, namely Meticulous Home Services. The affidavit deposed the following:

1. *I worked for Meticulous Maids (the company) now known as Meticulous Home Services. This is a cleaning services business based in West Auckland at 65A Farquhar Road, Glendene, Auckland, with a call centre number (0800MMAIDS) – 0800662437. The company sends its personnel to client-homes to clean.*
2. *I worked for the company from October 2012 to May 2013.*
3. *Ms Tejal Taylor of 5 Jubaea Place, Henderson represented the company's management.*
4. *I was supervised by a lady called Avaola who in turn reported to Ms Taylor.*
5. *My wages were paid weekly by Ms Taylor. She paid me in cash, enclosed in envelopes that had the Meticulous Maids name and logo.*
6. *The company gave me a vehicle to go to various cleaning jobs. The vehicle had the Meticulous Maids company logo on it. Ms Taylor drove a similar car.*



7. *One of the Meticulous Maids clients was Ms Taylor's mother. Ms Taylor paid me \$5 per hour for cleaning her mother's house. My normal hourly rate was \$10.50 per hour.*
8. *My relationship with the company deteriorated after I requested the company assist me with the documentation Housing New Zealand required to be filled by my employer. Ms Taylor stopped giving me work and later on advised me that Meticulous Maids had been sold on.*

[11] By Minute dated 3 October 2014 I directed the named respondent company to be served and to file a statement of reply confirming whether it was Ms Aiga's employer and if not, why not.

[12] On 28 October 2014 the respondent sent an email stating it did not employ Ms Aiga and requested they be struck out as a party in this matter.

[13] Ms Aiga was informed of the above email and asked for any further submissions by 6 November 2014. She has filed submissions as follows:

In regards to our conversation wheather Meticulous Maids and Meticulous Home Services (NZ) Limited is the same company yes I think (believe) it's the same company. And I also think we should target it. I have seen their company cars with Meticulous Maids NZ on the cars. Repeka was also cleaning private houses all over Auckland. Isn't that a home services limited?

Please enclose is a copy of Repeka's paid envelopes. She has a uniform with the logo on it.

Please do not hesitate to contact me if you have any inquiries to this matter.

[14] Enclosed with the submissions were two pieces of correspondence with the Meticulous Maids logo thereon.

Determination

[15] There is no evidence that Meticulous Home Services (NZ) Limited is in fact Ms Aiga's employer. There is no employment agreement or correspondence naming it as an employer. The name of the company is not Meticulous Maids nor is there evidence that was its trading name. There is no evidence Tejal Tailor was acting on its behalf or had any association with this company other than bare submission.

[16] In the circumstances, Meticulous Home Services (NZ) Limited is struck out as a party. There will be no order for costs as the parties were self-represented.



[17] The evidence before me does not support the employer of the applicant being Divyam Enterprises Limited. The company was struck-off on 22 December 2011 prior to the period of recovery of wages arrears. Accordingly it could not have employed her at the material time. Divyam Enterprises Limited is struck out as a party accordingly.

[18] The evidence does support Ms Aiga's employer being Mrs Tejal Tailor. Ms Tailor appears to be the person Ms Aiga received her instructions for work from and was paid by. Accordingly I determine Ms Tejal Tailor was Ms Aiga's employer.

[19] This matter shall be set down for a teleconference to be arranged by the support officer. A copy of my teleconference directions shall be provided to the parties.



T G Tetitaha
Member of the Employment Relations Authority

