

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 243
5461288

BETWEEN ANNIKA DANIQUE VAN VLIET
Applicant

A N D AMPHIBIANS SWIMMING
ACADEMY LIMITED
Respondent

Member of Authority: Rachel Larmer

Representatives: Applicant in person
No appearance for Respondent

Investigation Meeting: 18 June 2014 at Auckland

Date of Determination: 18 June 2014

DETERMINATION OF THE AUTHORITY

- A. Within 28 days of the date of this determination Amphibians Swimming Academy Limited is ordered to pay Ms van Vliet:**
- a. \$712 wages arrears;**
 - b. \$74.88 holiday pay;**
 - c. \$71.56 filing fee.**

No mediation

[1] Ms van Vliet applied to Mediation Services for mediation but Amphibians Swimming Academy Limited (Amphibians) did not respond to requests to attend mediation. Mediation has not occurred.

No Statement in Reply

[2] Amphibians was served with Ms van Vliet's Statement of Problem on 21 May 2014. It has not filed a Statement of Reply. It did not seek leave to file a Statement in Reply out of time.

No appearance

[3] Amphibians were served with the Authority's Notice of Hearing but it did not appear at the investigation meeting today.

Failure to comply with directions

[4] Amphibians failed to comply with the Authority's direction to provide Ms van Vliet's wage and time and holiday and leave records. It emailed the Authority on 09 June 2013 saying it has instructed lawyers and all relevant information would be provided by 13 June. That did not occur. No information has been provided by Amphibians.

Employment relationship problem

[5] Ms van Vliet started work with Amphibians on 19 November. She was not paid for her first two days of work which Amphibians called training. Before she started work the parties agreed she would be paid so whilst training Amphibians is ordered to pay her for the three and half hours she worked each day on 19 and 20 November. This amount is included in the wage arrears she has been awarded below.

[6] Ms van Vliet worked a total of 58.5 hours over the period 19 November 2013 to 09 March 2014. She was paid \$16 per hour. She should have been paid \$936 over that period but only received \$224. Amphibians are ordered to pay Ms van Vliet \$712 wage arrears.

[7] Ms van Vliet was not paid any holiday pay upon termination. Amphibians is ordered to pay her \$74.88 ($\$936 \times 8\%$) unpaid holiday pay.

[8] Ms van Vliet as the successful party is entitled to be reimbursed for her filing fee. Amphibians is ordered to pay her \$71.56 for that.

[9] Amphibians is ordered to pay Ms van Vliet \$858.44 she has been awarded within 28 days of the date of this determination.

Rachel Larmer
Member of the Employment Relations Authority