

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

[2015] NZERA Christchurch 47  
5520886

BETWEEN	JEANIE MAY BORSBOOM (LABOUR INSPECTOR) Applicant
AND	PREET PVT LIMITED First Respondent
AND	WARRINGTON DISCOUNT TOBACCO LIMITED Second Respondent
AND	DILBAG SINGH BAL Third Respondent

Member of Authority: M B Loftus

Representatives: Andrew Shaw, Counsel for Applicant  
Greg Gimblett, Counsel for Respondent

Investigation Meeting: On the papers and telephone conference 10 April 2015

Determination: 13 April 2015

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**CONSENT DETERMINATION OF THE AUTHORITY**

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[1] The applicant, Ms Borsboom, sought various orders against the three respondents regarding unpaid wages and holidays. She also sought penalties for various breaches of the Minimum Wage Act 1983, the Holidays Act 2003 and the Employment Relations Act 2000.

[2] Prior to the scheduled investigation meeting the parties discussed their differences and concluded an agreement in respect of the alleged arrears. They have not resolved the penalty claims.

[3] They ask the matters agreed so far be recorded as orders of the Authority. They also ask that the issue of penalties be determined on the papers if possible. I have accepted their request and make the following orders.

[4] The second and third (under s234 of the Employment Relations Act 2000) respondents are to pay the following minimum wage arrears (s6 and s11 of the Minimum Wage Act 1983) to the named employees:

Rakesh Kumar Nigah	\$8,067.98
Harpal Singh Bola	\$3,651.39
Hardeep Singh	\$15,114.64

[5] The first and third (under s234 of the Employment Relations Act 2000) respondents are to pay the following minimum wage arrears (s6 and s11 of the Minimum Wage Act 1983) to the named employees:

Jaspal Singh	\$9,411.37
Harbaldeep Singh	\$14,995.03

[6] The second and third (under s234 of the Employment Relations Act 2000) respondents are to pay each of the named employees the identified amount being wages owed in breach of Section 50 of the Holidays Act 2003:

Rakesh Kumar Nigah	\$259.31
Harpal Singh Bola	\$293.91
Hardeep Singh	\$751.50

[7] The first and third (under s234 of the Employment Relations Act 2000) respondents are to pay each of the named employees the identified amount being wages owed in breach of Section 50 of the Holidays Act 2003:

Jaspal Singh	\$331.50
Harbaldeep Singh	\$714.00

[8] The second and third (under s234 of the Employment Relations Act 2000) respondents are to pay each of the named employees the identified amount being wages owed in breach of Section 60 of the Holidays Act 2003:

Rakesh Kumar Nigah	\$357.50
Harpal Singh Bola	\$756.25
Hardeep Singh	\$1,584.00

[9] The first and third (under s234 of the Employment Relations Act 2000) respondents are to pay each of the named employees the identified amount being wages owed in breach of Section 60 of the Holidays Act 2003:

Jaspal Singh	\$663.00
Harbaldeep Singh	\$1,820.00

[10] The second and third (under s234 of the Employment Relations Act 2000) respondents are to pay each of the named employees the identified amount being arrears of wages owed in breach of Sections 23, 24 and 25 of the Holidays Act 2003:

Rakesh Kumar Nigah	\$694.78
Harpal Singh Bola	\$376.12
Hardeep Singh	\$4,533.46

[11] The first and third (under s234 of the Employment Relations Act 2000) respondents are to pay each of the named employees the identified amount being arrears of wages owed in breach of Sections 23, 24 and 25 of the Holidays Act 2003:

Jaspal Singh	\$3,485.22
Harbaldeep Singh	\$4,756.08

[12] The first and third (under s234 of the Employment Relations Act 2000) respondents are to pay Harbaldeep Singh \$728.00 being arrears of wages owed in breach of Section 71 of the Holidays Act 2003.

[13] Where two respondents are ordered to pay arrears the two respondents are jointly and severally liable for the arrears.

[14] The respondents contend some time may be necessary to make the ordered payments. The parties will therefore endeavour to agree a payment instalment plan. To progress this the respondents will provide the applicant with evidence of the financial positions of each, and a proposed payment schedule, no later than Monday 11 May 2015.

[15] The parties will then advise the Authority if an agreement has been reached no later than Monday 25 May 2015. If agreement has been reached the plan will be recorded, by consent, as an order of the Authority pursuant to s131(1A) of the Employment Relations Act 2000. If there is no agreement leave is reserved for the parties to return for a determination under s131(1A). The determination will be based on the evidenced financial position of the respondents (14 above).

[16] Interest on the above arrears (paragraphs 4 to 12 inclusive) will not accrue unless there is default on any agreed or directed instalment plan, at which point

interest will apply on all outstanding arrears, backdated to the date of the consent orders.

[17] The applicant continues to seek penalties against the first and second respondents. The parties seek to have this determined on the papers if possible. To that end the applicant is to file submissions and supporting affidavits no later than Monday 4 May 2015. The respondents will then have till Monday 25 May 2015 to provide its submissions and supporting affidavits in response. The applicant will then have a further 7 days to file any submissions in reply (if required).

[18] The parties accept it may not be possible to resolve the question of penalties on the papers and I will assess this once I have received the submissions and supporting affidavits.

M B Loftus  
Member of the Employment Relations Authority