

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2016] NZERA Christchurch 38
5592483

BETWEEN

STEPHEN SIAW
Applicant

AND

PARTS ARE US LIMITED
(previously named SUNWAY
ENTERPRISE (N.Z.)
LIMITED)
Respondent

Member of Authority: Christine Hickey

Representatives: Stephen Siaw, in person
Honor Slape, Advocate for the Respondent

Date of Investigation Meeting: 1 April 2016 via telephone

Date of Determination: 1 April 2016

DETERMINATION OF THE AUTHORITY

- A. Within 28 days of the date of this determination Parts Are Us Limited must pay Stephen Siaw a total of \$4,018.63 being \$3,947.07 gross unpaid wages and the \$71.56 filing fee**

Employment relationship problem

[1] Stephen Siaw worked for Sunway Enterprise (NZ) Limited (“the company”) during May and June of 2014. He was on a work visa. The company did not pay Mr Siaw during his time working. He has not been paid anything since he finished work.

[2] During the months after Mr Siaw left New Zealand he and Honor Slape, who is the sole director of the company, corresponded by email. There was initially some disagreement about how much Mr Siaw should have been paid and how that was to be calculated.

[3] On 18 October 2015, Mr Siaw sent Ms Slape an email accepting an offer she made to pay him being \$2,842.99 net.

[4] On 30 October 2015, Mr Siaw made an application to the Authority to be paid his outstanding wages and holiday pay. He claims the amount agreed between him and Ms Slape of \$2,842.99 net, which is \$3,947.07 gross.

[5] I arranged to hear the matter by telephone conference today at 10.30 am.

[6] Mr Siaw was joined to the telephone conference. The Authority Officer tried to join Ms Slape to the conference on a number that has previously been used to reach her successfully. However, Ms Slape's number is no longer in service.

[7] I am satisfied that Ms Slape was served personally with the Notice of Investigation meeting in her capacity as the director of the company. She was served at her home address, which is also the address for service of the company, and its registered address. The company has not been represented by any other person during the proceedings in the Authority. I am also satisfied that Ms Slape was emailed at least twice by the Authority Officer asking her to provide a suitable phone number for today's investigation meeting. Ms Slape did not provide an alternative number.

[8] I continued with the investigation meeting in Ms Slape's absence as I am empowered to do under clause 12 of Schedule 2 of the Employment Relations Act 2000.

[9] I questioned Mr Siaw and he gave affirmed evidence. I did not receive any new evidence from him today that the company is not already aware of.

[10] The Authority received the company's statement in reply on 19 November 2015. In it, Ms Slape offers to pay Mr Siaw at a rate of \$5 per week. That offer is not acceptable to Mr Siaw.

[11] I am satisfied that the company owes Mr Siaw the amount of \$3,947.07 gross and must pay him. The company should account for the tax on that amount to the

IRD and pay Mr Siaw \$2,842.99. It is also reasonable that the company pay Mr Siaw the fee it cost him to file these proceedings with the Authority, which is \$71.56.

Christine Hickey
Member of the Employment Relations Authority