

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2018] NZERA Wellington 100
3029618

BETWEEN TALJINDER SINGH KHASRIYA
 Applicant

AND SR COURIER SERVICE
 LIMITED t/a FASTWAY
 COURIERS HAWKES BAY
 Respondent

Member of Authority: M B Loftus

Representatives: Taljinder Khasriya, on own behalf
 Nil for Respondent

Investigation Meeting: On the papers

Determination: 7 November 2018

DETERMINATION OF THE AUTHORITY

[1] Taljinder Singh Khasriya seeks the payment of wages he says he is yet to receive from his employer, SR Courier Service Limited (SR). He says \$3,200.00 is owed.

[2] There is also an issue concerning PAYE. Payslips Mr Khasriya has in his possession show PAYE has been deducted from amounts he has received but his IRD record shows none of this money has been forwarded to the Inland Revenue on his behalf. Payslips Mr Khasriya has in his possession show at least \$1,477.40 is involved but some are missing and the content of those Mr Khasriya has suggest the amount is undoubtedly higher.

[3] SR's position is unknown given its failure to participate in the Authority's process. There is no statement in reply nor has the company otherwise responded to the papers I am satisfied have been served upon it.

[4] All companies are required to have an address for service.¹ SR's is 37 McNaughton Place, Onekawa, Napier. The issues with service were such I required Mr Khasriya arrange personal service and despite significant difficulties arising from the fact he no longer resides in Napier I am satisfied he has done so twice.

[5] The second set of papers included advice that should there be no response the matter would be determined on the papers already lodged with the Authority. Despite service there has been no response and I consider it appropriate to continue, as advised was possible, on the papers. An employer cannot avoid its obligation to pay its staff simply by ignoring a claim it has not done so.

[6] Mr Khasriya supports his claim with;

- a. a written statement accompanied:
- b. a copy of his employment agreement (which clearly establishes the fact of employment);
- c. those payment records he has in his possession;
- d. a document from the Inland Revenue Department showing PAYE deductions forwarded on his behalf at the relevant time; and
- e. correspondence and text exchanges between himself and Abdul Shamir Khan, a director of SR and its sole shareholder.

[7] The documents, and particularly some texts from Mr Khan, confirm both the fact of employment and that money owes.

[8] Given that and the absence of any contrary advice I accept Mr Khasriya's estimate of the amount and order payment accordingly. I also accept money is owed to the Inland Revenue Department in respect to Mr Khasriya's PAYE and order the appropriate amount be forwarded by SR forthwith.

[9] There is then the issue of costs to which Mr Khasriya is entitled given he has been wholly successful. As he is self-represented these are, however, limited to reimbursement of the Authority's filing fee. That too is payable.

¹ Section 192(1) of the Companies Act 1993

Orders

[10] For the above reasons I order the respondent, SR Courier Service Limited, pay the applicant, Taljinder Singh Kshatriya, the sum of \$3,200.00 (three thousand, two hundred dollars) being unpaid wages along with a further \$71.56 (seventy one dollars and fifty six cents) being reimbursements of the Authority's filing fee which Mr Khasriya paid.

[11] I also order SR Courier Services Limited forward to the Inland Revenue all PAYE it has deducted from Mr Khasriya's wages.

[12] The above payments are to be made no later than 4.00pm on Friday 30 November 2018.

[13] In closing I advise the respondent and its director, Abdul Khan, of two further points. The first is that as this determination involves a failure to pay money due to an employee Mr Khan may find himself personally liable should SR fail to pay.² The second is continuing failures may result in further consequences that could potentially include the imposition of fines, the sequestration of property and/or imprisonment.

M B Loftus
Member of the Employment Relations Authority

² Sections 142W and 142Y of the Employment Relations Act 2000