

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2019] NZERA 493
3047333

BETWEEN	A Labour Inspector Applicant
A N D	ABC First Respondent
AND	RST Second Respondent
AND	WXY Third Respondent

Member of Authority: Rachel Larmer

Representatives: Catherine Milnes for Applicant
Werner van Harselaar for Respondents

Investigation Meeting: 20 August 2019

Oral Determination: 20 August 2019

Written Record of Oral
Determination: 20 August 2019

ORAL DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] This matter is subject to an interim non-publication order, made subject to specified conditions, that applies until further order of the Authority.¹

¹ [2019] NZERA 483.

[2] The workers who are the subject of these Labour Inspector proceedings are referred to as Mr E, Mr W and Mr D in order to preserve the confidentiality given to the respondents under the interim non-publication order.

[3] Each worker was named during the Authority's investigation meeting today, and two of them participated via a telephone conference call held during part of today's investigation meeting. The parties therefore know who each of the anonymised names refers to.

[4] The first respondent has accepted liability for outstanding wage arrears totalling \$40,272.30 involving the three workers (Mr E, Mr W and Mr D), on whose behalf the Labour Inspector is pursuing these proceedings;

[5] The first respondent has paid \$40,272.30 into his lawyer's trust account in recognition of that acknowledged liability;

[6] At the conclusion of the Authority's investigation meeting today, it was agreed that the Authority would make the following orders:

- a. Within two days of the date of this determination Mr van Harselaar's trust account is ordered to disburse, via the Labour Inspectorate, to Ministry of Business Innovation and Employment (MBIE) the amount of \$40,272.30 from the funds it is holding on behalf of the first respondent;
- b. The disbursement of these funds from Mr van Harselaar's trust account is to be used by the Labour Inspector to pay some of the acknowledged wage arrears the first respondent has admitted to owing Mr E, Mr W and Mr D;
- c. Within 14 days of the date of this determination the Labour Inspectorate is to disburse:
 - i. \$6,000 gross wage arrears to Mr E;
 - ii. \$21,191 gross wage arrears to Mr W; and
 - iii. \$12,256 gross wage arrears to Mr D.

- d. The Labour Inspectorate is responsible for ensuring that the correct employer deductions, such as PAYE, ACC levy, and any other legally required deductions, are made from the amounts specified above and remitted to Inland Revenue Department on behalf of each worker before the net amount of the gross payments identified above are disbursed to each of the three workers;
- e. The remaining balance of the funds transferred from Mr van Harselaar's trust account that are received by MBIE are to be held by the Labour Inspectorate, on behalf of the three workers involved in these proceedings, pending further order of the Authority;
- f. MBIE is to pay Mr E and Mr D statutory witnesses expenses, including any travel reimbursements, for their attendance at the Authority's investigation meeting today.

[7] Costs are adjourned sine die.

Rachel Larmer
Member of the Employment Relations Authority