

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURĀU ROHE**

[2020] NZERA 264
3088152

BETWEEN

BINOY MATHEW
Applicant

AND

**KARAPIRO MOTORS (1975)
LIMITED**
Respondent

Member of Authority: Vicki Campbell

Representatives: Applicant in Person
Marcel Beetz for Respondent

Investigation Meeting: On the papers

Submissions and other information received: 30 April, 8 and 17 May 2020 from Applicant
11 May 2020 from Respondent

Determination: 30 June 2020

DETERMINATION OF THE AUTHORITY

- A. Karapiro Motors (1975) Limited is ordered to pay to Mr Mathew the sum of \$1,712 as arrears of wages under s 131 of the Act within 14 days of the date of this determination.**
- B. Karapiro Motors (1975) Limited is ordered reimburse Mr Mathew the filing fee of \$71.56 within 14 days of the date of this determination.**

Employment relationship problem

[1] Mr Mathew was employed by Karapiro Motors (1975) Limited from 20 June 2016 to 3 October 2017 as a service station assistant. In a statement of problem lodged in the Authority on 21 January 2020 Mr Mathew claims he was not paid correctly when his employment ended in 2017.

[2] A case management call was convened on 22 April 2020 to discuss progressing Mr Mathew's claim through to determination. During that call Mr Mathew agreed he was claiming arrears of wages in the sum of \$1,711.50. Prior to the case management call Mr Beetz had emailed payslips which confirmed Mr Mathew was owed \$1,712 for unpaid holiday pay and for work undertaken on public holidays.

[3] The parties were provided with an opportunity to resolve the matter by having the sum claimed deposited into a bank account held by Mr Matthew. Karapiro Motors (1975) Limited was directed to complete the transaction by 24 April 2020.

[4] Mr Mathew was told to contact the Authority once the sum had been paid and to advise whether he wished to pursue his claim any further. He was directed to lodge with the Authority a document showing any further sums he claims are owing to him and to set out his calculations for the additional sums.

[5] Pursuant to s 174D of the Act this matter has been determined on the papers before the Authority without holding an investigation meeting.

Issues

[6] In order to resolve Mr Mathew's application I must determine what arrears of wages are owed to him.

[7] As permitted by s 174E of the Act this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made as a result. While I have not referred in this determination to all the evidence received I have carefully considered everything.

Arrears of wages

[8] I am satisfied the following arrears of wages totalling \$1,712 for holidays and public holidays remain outstanding:

Pay period ending	Holiday		Total due
30 October 2016	Labour Day – alternative holiday	7.5 x \$18/hour	\$135.00
1 January 2017	Christmas Day and Boxing Day – half rate in addition to the ordinary rate of pay plus alternative holidays	7.5 x \$9.5/hour (half rate) plus 15 x \$19/hour	\$356.25
8 January 2017	New Years Day and the day after New Years Day – half rate in addition to the ordinary rate of pay plus alternative holidays	7.5 x \$9.5/hour (half rate) plus 15 x \$19/hour	\$356.25
12 February 2017	Waitangi Day – alternative holiday	7.5 x \$19/hour	\$142.50
31 March 2017	8 hours annual leave instead of sick leave	8 x \$19/hour	\$152.00
16 April 2017	Good Friday – alternative holiday	7.5 x \$19hour	\$142.50
16 April 2017	Easter Monday – alternative holiday	7.5 x \$19hour	\$142.50
16 April 2017	ANZAC Day – alternative holiday	7.5 x \$19hour	\$142.50
15 August 2017	7.5 hours annual leave instead of sick leave	7.5 x \$19/hour	\$142.50

[9] Karapiro Motors (1975) Limited is ordered to pay to Mr Mathew the sum of \$1,712 as arrears of wages under s 131 of the Act within 14 days of the date of this determination.

Compensation

[10] In his statement of problem Mr Mathew has claimed compensation. Such claims fall under s 123 of the Employment Relations Act 2000. Remedies under s 123 are available in circumstances where the Authority determines an employee has a personal grievance.

[11] In his statement of problem Mr Mathew has not claimed a personal grievance. There is no evidence Mr Mathew raised a personal grievance within the statutory 90-

day period. The statement of problem was lodged in January 2020. The employment relationship ended in 2017 and so it is likely any personal grievance would have been out of time and outside the jurisdiction of the Authority. Accordingly Mr Mathew's claim for compensation is declined.

Interest

[12] In an email to the Authority on 20 April Mr Mathew sought interest on the arrears of wages. This claim was not included in the statement of problem and so was not properly before the Authority. Accordingly, Mr Mathew's claim for interest is declined.

Costs

[13] Mr Mathew seeks costs associated with his claim. In his email dated 30 April Mr Mathew set out his claim for costs which included:

- a) \$600 for time he says he has spent on the matter equating to 30 hours; and
- b) \$275 for accountants fees

[14] Neither of these claims were included in Mr Mathew's statement of problem and so Karapiro Motors (1975) Limited was not on notice that they would be claimed by Mr Mathew. Accordingly, Mr Mathew's claim for reimbursement of these costs is declined.

[15] Mr Mathew's is entitled to be reimbursed the filing fee on his application. Accordingly, Karapiro Motors (1975) Limited is ordered to reimburse Mr Mathew the filing fee of \$71.56 within 14 days of the date of this determination.

Further orders

[16] To facilitate the payment of the orders set out in this determination Mr Mathew is ordered to provide his bank account details to Karapiro Motors (1975) Limited within seven days of the date of this determination.

Vicki Campbell
Member of the Employment Relations Authority