

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI-Ā-TARA ROHE**

[2020] NZERA 302
3074212

BETWEEN RICHARD BIRKHEAD
 Applicant

AND HUTT REGIONAL
 BASKETBALL ASSOCIATION
 INCORPORATED
 Respondent

Member of Authority: Michael Loftus

Representatives: Applicant in person
 Gerrad van Ooyen, for respondent

Investigation Meeting: 4 August 2020 at Wellington

Date of Determination: 4 August 2020

ORAL DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The applicant, Richard Birkhead, claims he is yet to receive holiday pay on wages paid as an employee of the Hutt Regional Basketball Association Incorporated (The Association).

[2] The Association, in its statement in reply asserted *there has not been an employment agreement with Mr Birkhead. Any historical services undertaken by Mr Birkhead were on a Contract for Services basis.*

[3] When the claim was originally lodged the Association was known as Hutt Valley Basketball Association Incorporated and it was identified as such. The name was changed with effect 24 December 2019 and the citation has, by consent, been altered accordingly.

Discussion

[4] During the investigation the parties engaged in discussion informed by a previous President of the Association who accepted Mr Birkhead had been an employee. The Association conceded that point. The Association also conceded Mr Birkhead should have received holiday pay on sums he was paid which had not occurred.

[5] That left the issue of quantum. Mr Birkhead estimated he was due \$560.00 gross. The Association initially said its records suggested a lesser sum but, again after discussion, conceded the records were incomplete and it could not disprove Mr Birkhead's calculation which it then accepted.¹

[6] As the claim has now been conceded in full it follows orders shall be made accordingly.

[7] The final issue is costs though as Mr Birkhead is self-represented recoverable costs are limited to the Authority's filing fee. That too is payable.

Conclusion

[8] As a result of the Association's concessions I order it pay Richard Birkhead \$560.00 (five hundred and sixty dollars) gross being outstanding holiday pay plus a further \$71.56 (seventy one dollars and fifty six cents) being reimbursement of the Authority's filing fee

[9] The payments specified in paragraph [8] above are to be made no later than Wednesday 19 August 2020.

Michael Loftus
Member of the Employment Relations Authority

¹ Applying section 132 of the Employment Relations Act 2000