

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2021] NZERA 283
3133339

BETWEEN CHRISTINE TURNER, KIM
TURNER, EVEYLYN
GUINAVES, LANA
McKENZIE WRIGHT,
DAVID RAWIRI, SANDRA
WINGFIELD, IMRANA
KHAN, LOU GUINAVES,
MOHINI SHARMA,
BRITTANY COYLE
FAIRBURN
Applicants

AND SWEET HOME EK LIMITED
T/A LITTLE STARS EARLY
LEARNING CENTRE
Respondent

Member of Authority: Leon Robinson
Representatives: Applicants In Person
No appearance by Respondent
Investigation Meeting: 16 April 2021 and 12 May 2021
Determination: 6 July 2021

DETERMINATION OF THE AUTHORITY

The problem

[1] The Applicants Christine Turner, Kim Turner, Evelyn Guinaves, Lana McKenzie Wright, David Rawiri, Sandra Wingfield, Imrana Khan, Lou Guinaves, Mohini Sharma and Brittany Coyle Fairburn (the Applicants) were all employees of Sweet Homeek Limited which traded as Little Stars Early Learning Centre (Little Stars). They make application to recover arrears of wages due to them under their employment agreements.

The investigation

[2] The Applicants' statement of problem was served on Little Stars by email verified by it as correct on 2 March 2021. Little Stars failed to lodge a statement in reply in the time permitted for it to do so.

[3] By Minute dated 10 March 2021, the parties were directed to attend mediation within forty working days. The directed mediation did not proceed because Little Stars did not cooperate to make the necessary arrangements for it.

[4] Little Stars failed to take any steps and so I directed that the matter should proceed to investigation meeting. Little Stars did not attend the scheduled investigation meetings and I was satisfied that there was no good reason for that non-attendance. I proceeded to act as fully in the matter as if Little Stars had attended.

[5] As permitted by section 174E of the Employment Relations Act 2000 (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. It has not recorded all evidence and submissions received.

The analysis

[6] All of the Applicants gave evidence that their wages were paid late on multiple occasions. I have seen emails in which Little Stars management acknowledges and apologises for its failings. I have also seen emails in which demand is made of Little Stars for payment.

[7] The Applicants did not receive 2 weeks wages due to be paid to them on Wednesday 10 February 2021. They became understandably wholly dissatisfied with the situation and collectively they made a decision not to perform any more work for Little Stars after 19 February 2021. They were due to be paid 2 weeks wages again on Wednesday 24 February 2021.

[8] Each of the Applicants gave credible, consistent and unchallenged evidence that they had worked and had not been paid. They all said they did not receive the wages due to them on the fortnightly pay days of Wednesday 10 February 2021 and Wednesday 24 February 2021.

[9] I am satisfied that each of the Applicants performed 18 days work for Little Stars from Wednesday 27 January 2021 up to Friday 19 February 2021. I am further satisfied that each of the Applicants, having performed that work, were not paid the wages they were entitled to under the terms of their employment agreement. I therefore accept that Little Stars is liable to pay arrears of wages to each of the Applicants.

The calculations

[10] I interviewed each Applicant to ascertain the quantum of arrears of wages they were entitled to succeed to judgment on.

The applicant Christine Turner

[11] Christine Turner commenced employment with Little Stars in August 2020. At the time she left the employment she was employed as Cook/Teacher. Christine was employed to work 37.5 hours per week between Monday and Friday at an hourly rate of \$22.00. I calculate 18 days (27 January to 19 February inclusive) wages for Christine to be in the gross sum of \$2,574.0 (65hours/10days x 18days x \$22.00). I am satisfied that there has been default in payment to Christine Turner of outstanding wages in the gross sum of \$2,574.00.

The applicant Kim Turner

[12] Kim Turner commenced employment with Little Stars' predecessor in May 2020 and continued to be employed by Little Stars as a Teacher. She had given notice of resignation and her employment with Little Stars ended on 15 February 2021. Kim was employed to work 63.75 hours per fortnight at an hourly rate of \$21.00. I calculate 14 days (27 January to 15 February inclusive) wages for Kim to be in the gross sum of \$1,874.25 (63.75hours/10days x 14days x \$21.00). I am satisfied that there has been default in payment to Kim Turner of outstanding wages in the gross sum of \$1,874.25.

The applicant Evelyn Guinaves

[13] Evelyn Guinaves commenced employment with Little Stars in January this year as a part-time teacher. Evelyn was employed to work 25 hours per week between Monday and Friday. From Monday to Thursday she worked 4 hours each day between 10am and 2pm and on Fridays she worked 8 hours between 8am and 4pm. She was paid an hourly rate of \$20.00 per hour. I calculate 18 days (27 January to 19 February inclusive) wages for Evelyn to be in the gross sum of \$1,760.00 (88hours x \$20.00). I am satisfied that there has been default in payment to Evelyn Guinaves of outstanding wages in the gross sum of \$1,760.00.

(Table of hours worked 27 Jan to 19 Feb)

Mon	Tues	Weds 27th (Jan) 4hrs	Thurs 28 th 4hrs	Fri 29 th 8hrs
1st (Feb) 4hrs	2nd 4hrs	3rd 4hrs	4th 4hrs	5th 8hrs
8 th 4hrs	9 th 4hrs	10 th 4hrs	11 th 4hrs	12 th 8hrs
15 th 4hrs	16 th 4hrs	17 th 4hrs	18 th 4hrs	19 th 8hrs

The applicant Lana McKenzie Wright

[14] Lana McKenzie-Wright commenced employment with Little Stars in June 2020. She was employed as a reliever, on a casual basis according to the employment agreement. The employment agreement also specified that Lana was employed to work 30 hours per week between Monday and Friday paid at an hourly rate of \$19.50. I calculate 18 days wages for Lana as the gross sum of \$2,106.00 (30hours/5days x 19.50 x 18days). I am satisfied that there has been default in payment to Lana McKenzie-Wright of outstanding wages in the gross sum of \$2,106.00.

The applicant David Rawiri

[15] David Rawiri commenced employment with Little Stars in May 2020. He was employed as the manager of Little Stars. David was employed to work 30 hours per week between Monday and Friday and was paid an hourly rate of \$36.00 per hour. I calculate 18 days wages for David as the gross sum of \$3,888.00 (6hrs x 18days x \$36.00). I am satisfied that there has been default in payment to David Rawiri of outstanding wages in the gross sum of \$3,888.00.

The applicant Sandra Wingfield

[16] Sandra Wingfield commenced employment with Little Stars in May 2020. She was employed as a trainee Teacher. Sandra was employed to work 32 hours per week when studying but otherwise worked 36 hours per week. She was paid an hourly rate of \$21.00 per hour. I calculate 18 days wages for Sandra to be in the gross sum of \$2,646.00 (7hours x 18days x \$21.00). I am satisfied that there has been default in payment to Sandra Wingfield of outstanding wages in the gross sum of \$2,646.00.

The applicant Imrana Khan

[17] Imrana Khan commenced employment with Little Stars in September 2020. She was employed as a Teacher (Infants Room). Imrana was employed to work 37.5 hours per week between Monday and Friday and was paid an hourly rate of \$26.00 per hour. I calculate 18 days wages for Imrana to be in the gross sum of \$3,510.00

(75hours/10days x 18days x \$26.00). I am satisfied that there has been default in payment to Imrana Khan of outstanding wages in the gross sum of \$3,510.00.

The applicant Lou Guinaves

[18] Lou Guinaves commenced employment with Little Stars in May 2020. Lou was employed to work 37.5 hours per week between Monday and Friday and was paid an hourly rate of \$29.00 per hour. I calculate 18 days wages for Lou to be in the gross sum of \$3,915.00 (7.5hrs x \$29.00 x 18days). I am satisfied that there has been default in payment to Lou Guinaves of outstanding wages in the gross sum of \$3,915.00.

The applicant Mohini Sharma

[19] Mohini Sharma commenced employment with Little Stars in June 2020. She was employed as a Teacher. Mohini was employed to work 37.5 hours per week and was paid an hourly rate of \$28.00 per hour. I calculate 18 days wages for Mohini as the gross sum of \$3,780.00 (7.5hrs x \$28 x 18 days). I am satisfied that there has been default in payment to Mohini Sharma of outstanding wages in the gross sum of \$3,780.00.

The applicant Brittany Coyle Fairburn

[20] Brittany Coyle Fairburn commenced employment with Little Stars in May 2020. Brittany was employed as a Teacher in the babies room to work 32 hours per week and was paid an hourly rate of \$21.50 per hour. I calculate 18 days wages for Brittany as (7hrs x \$21.50 x 18days) to be in the gross sum of \$2,709.00. I am satisfied that there has been default in payment to Brittany Coyle Fairburn of outstanding wages in the gross sum of \$2,709.00.

The outcome

[21] Being satisfied that there has been default in payment by Sweet Homeek Limited trading as Little Stars to the Applicants under their employment agreements, and pursuant to section 131 of the Act, I make these orders:-

- (a) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **Christine Turner** the **gross sum of \$2,574.00** as arrears of wages within 28 days of the date of this determination;
- (b) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **Kim Turner** the **gross sum of \$1,874.25** as arrears of wages within 28 days of the date of this determination;

- (c) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **Evelyn Guinaves** the **gross sum of \$1,760.00** as arrears of wages within 28 days of the date of this determination;
- (d) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **Lana McKenzie-Wright** the **gross sum of \$2,106.00** as arrears of wages within 28 days of the date of this determination;
- (e) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **David Rawiri** the **gross sum of \$3,888.00** as arrears of wages within 28 days of the date of this determination;
- (f) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **Sandra Wingfield** the **gross sum of \$2,646.00** as arrears of wages within 28 days of the date of this determination;
- (g) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **Imrana Khan** the **gross sum of \$3,510.00** as arrears of wages within 28 days of the date of this determination;
- (h) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **Lou Guinaves** the **gross sum of \$3,915.00** as arrears of wages within 28 days of the date of this determination;
- (i) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **Mohini Sharma** the **gross sum of \$3,780.00** as arrears of wages within 28 days of the date of this determination;
- (j) Sweet Homeek Limited trading as Little Stars Early Learning Centre is ordered to pay to **Brittany Coyle Fairburn** the **gross sum of \$2,709.00** as arrears of wages within 28 days of the date of this determination.

[22] I make no orders on holiday pay wage arrears because there is no claim for it in the application and Little Stars has not been put on notice of such a claim.

Leon Robinson
Member of the Employment Relations Authority