

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2021] NZERA 325
3123314

BETWEEN MASON RUDOLPH
Applicant

AND NZ WRAP AND NETS CHRISTCHURCH
LIMITED
First Respondent

LEE McCREATH
Second Respondent

Member of Authority: Philip Cheyne

Appearances: No appearance by the Applicant
No appearance by the Respondents

Investigation Meeting: 27 July 2021 at Christchurch

Date of Determination: 27 July 2021

DETERMINATION OF THE AUTHORITY

A. The claim is dismissed.

Employment relationship problem

[1] Mason Rudolph, in his first statement of problem, identified NZ Wrap and Nets Limited as the respondent.

[2] By an amended statement of problem lodged soon after, Mr Rudolph sought compensation,¹ lost wages or payment of notice (whichever was the higher amount), payment

¹ Under s 123(1)(c)(i) of the Employment Relations Act 2000.

of minimum entitlements,² interest on those amounts, penalties³ and costs against NZ Wrap and Nets Christchurch Limited as the respondent. However, in the statement of problem, Mr Rudolph claimed he had been employed by NZ Wrap and Nets Limited and referred to that company, not NZ Wrap and Nets Christchurch Limited.

[3] The statement of problem was sent to NZ Wrap and Nets Limited and NZ Wrap and Nets Christchurch Limited, but neither company lodged a reply.

The Authority's investigation

[4] A case management conference was arranged with Mr Rudolph's representative. Both companies were offered the opportunity to participate, but neither did. I asked the representative which company it was intended to claim against. The representative told me that it was NZ Wrap and Nets Christchurch Limited. A date was set for an investigation meeting.

[5] Later, the representative lodged a memorandum. It stated that an amended statement of problem had been lodged on 6 November 2020, making claims against NZ Wrap and Nets Christchurch Limited and Lee McCreath. Mr McCreath is shown on the Companies Office website as the sole director and shareholder of that company. The Authority had not received this amended statement of problem earlier. I treat Mr Rudolph as lodging this further amended statement of problem on 24 May 2021. The Authority sent it to NZ Wrap and Nets Christchurch Limited and Lee McCreath. Neither party lodged a statement in reply.

[6] While the further amended statement of problem expressly identified NZ Wrap and Nets Christchurch Limited and Mr McCreath as respondents, it repeated the assertion that Mr Rudolph had been employed by NZ Wrap and Nets Limited. However, in reliance on the representative's advice, NZ Wrap and Nets Limited was no longer part of the Authority's investigation. The documents provided to the Authority on Mr Rudolph's behalf indicate that his employer might have been NZ Wrap and Nets Christchurch Limited or Mr McCreath, but not NZ Wrap and Nets Limited.

² Wages under the Minimum Wages Act 1983 and holiday pay (including for public holidays) and sick leave under the Holidays Act 2003.

³ Under sections 4, 132 and 134 of the Employment Relations Act 2000 and s 13 of the Wages Protection Act 1983.

[7] Mr Rudolph's representative later advised the Authority that he had lost contact with his client and was unable to lodge a statement of evidence. I did not adjourn the matter, although the Authority noted that the representative had withdrawn.

[8] Neither the applicant, Mr McCreath or NZ Wrap and Nets Christchurch Limited appeared this morning. Given the absence of evidence supporting the claims, I must dismiss the application.

[9] There is no order for costs.

Philip Cheyne
Member of the Employment Relations Authority