

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2021] NZERA 513
3135905

BETWEEN DIPANSHU KHANDELWAL
Applicant

AND SHEERO JOGA INVESTMENTS
LIMITED t/a ABODE CAFE
Respondent

Member of Authority: Geoff O’Sullivan

Representatives: Vikram Singh, advocate for the Applicant
No appearance for the Respondent

Investigation Meeting: 16 November 2021 at Wellington

Submissions Received: At the investigation meeting

Date of Determination: 19 November 2021

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The applicant, Dipanshu Khandelwal, resigned from his employment on two weeks’ notice on 7 March 2021. He says that as his payments stopped from the moment he submitted his resignation, he is owed two weeks unpaid wages totalling \$1,188 plus \$400 holiday pay.

[2] Mr Khandelwal also says he has a personal grievance because he was disadvantaged in his employment during the notice period. This was because Sheero Joga Investments Limited (SJI) did not engage with him when he attempted to sort out issues he had regarding non-payment of wages and holiday pay and did not pay him. He says this action, especially not engaging with him during the final days of his employment, caused him hurt and humiliation and injury to feelings. He claims \$2,000.

[3] SJI has not engaged at all in these proceedings despite having been served a copy of the statement of problem and a notice of hearing. SJI did not attend the investigation meeting which raised the question of whether or not it should proceed. After adjourning the investigation meeting

for 15 minutes I decided to proceed on the basis that the company was well aware that the investigation meeting was to be held. It was aware of the date and time of the investigation meeting but for its own reasons chose not to attend.

Background

[4] Mr Khandelwal commenced employment on or about 27 January 2021 after signing and returning an employment agreement. He was employed by SJI as a sous chef but after working for some six weeks reached a decision to end his employment with SJI. He provided a written notice to the company's director, Rakesh Kumar. He states from that day on he received no further wages and nor was he paid his holiday pay. He claims wages from 8 March 2021 until 21 March 2021. He also claims eight per cent of the gross salary paid to him as holiday pay. Mr Khandelwal was paid at a rate of \$24 per hour. The employment agreement provided he was to be rostered on for 34 hours each week. The two weeks he was not paid, Mr Khandelwal says he worked 54 hours.

[5] SJI has not provided any records in respect of the matter, including wage and time records. Accordingly, I have accepted the evidence of Mr Khandelwal in respect of unpaid wages.¹

[6] I also accept the evidence of Mr Khandelwal that as a result of his personal grievance, he suffered some hurt and humiliation and injury to feelings. This was as a result of not only being not paid, but also because of his employer's refusal to engage with him at all over the matter in the final days of his employment.

Conclusion and orders

[7] SJI is ordered to pay Mr Khandelwal within 14 days the following:

- (a) Unpaid wages and holiday pay totalling \$1,588 less PAYE;
- (b) The sum of \$2,000 pursuant to s 123(1)(c)(i) of the Employment Relations Act 2000;
- (c) \$500 as a contribution towards costs.

Geoff O'Sullivan
Member of the Employment Relations Authority

¹ s 132 Employment Relations Act 2000