

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2022] NZERA 384  
3156001

BETWEEN PAUL JOHNSTONE and  
SHERYL JOHNSTONE  
Applicants

AND ROBBIE SINGH  
First Respondent

R & K SINGH  
Second Respondent

Member of Authority: Leon Robinson

Representatives: Applicants in person  
No appearance by Respondents

Investigation Meeting: 5 August 2022 by internet video conference

Determination: 11 August 2022

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Paul Johnstone (Mr Johnstone) and his wife Sheryl Johnstone (Mrs Johnstone) apply to recover arrears of wages from the Respondents. Mr Johnstone claims the gross sum of \$2,900.00 and Mrs Johnstone claims the gross sum of \$1,731.00.

[2] The Respondents failed to lodge a statement in reply within the time prescribed for them to do so. They took no other steps to respond to the application. They did not at any time apply for the Authority's leave to respond to the application. The Applicants' claims are not challenged.

**The Authority's investigation**

[3] The statement of problem was served on the First Respondent Mr Robbie Singh (Mr Singh) by process server. By an affidavit of service sworn by Stephen Anthony West dated 17 May 2022, I am satisfied that on Monday 16 May 2022 the First

Respondent Mr Singh was served with the statement of problem (and attachments) together with Directions of the Authority dated 9 May 2022.

[4] The Respondents failed to lodge a statement in reply or take any other steps. I directed the application proceed to investigation meeting and a notice of investigation meeting was also served on the Respondents by process server.

[5] Mr Singh telephoned the Authority's office on the morning of the investigation meeting on 5 August 2022. During the investigation meeting I was alerted to Mr Singh's contact. I telephoned Mr Singh anticipating that he would seek the Authority's leave and join the investigation meeting. Mr Singh declined my invitation and explained that he had been unwell and was not able to cooperate. He explained he wished to resolve matters and undertook to pay into their bank account that same day, the sums owed to the Applicants. I informed Mr Singh that based on his undertaking I would not issue the Authority's determination that day.

[6] I am advised that Mr Singh did not meet his undertaking. Because of that, this determination now issues.

### **The issues**

[7] The issues requiring determination in this problem is whether the Applicants are owed arrears of wages and which of the Respondents is liable for such arrears.

### **The analysis**

[8] Mr Johnstone and Mrs Johnstone affirmed their unchallenged evidence to me.

[9] I find that Mr Johnstone was employed personally by Mr Robbie Singh in the role of Farm Manager. Mr Johnstone's role was full-time and indefinite commencing on 1 June 2021. The salary was \$75,400.00. The role included a service tenancy valued at \$10,400.00.

[10] I accept that Mrs Johnstone was employed personally by Mr Robbie Singh as Farm Assistant on identical terms as her husband. Mrs Johnstone's role was full-time and indefinite commencing on 1 June 2021. The salary was \$45,000.00.

[11] When Mr and Mrs Johnstone moved in, they found that the carpets were mouldy, and the oven was not working. They were horrified to find the effluent system was not functional and that many of the paddocks had no power, water, or fences. It

unsettled them to find some of the cows in very poor health due to bad eczema and unhealthy yearlings due to being overdue a worm drench. They were also very concerned by a camera installed by Mr Singh just before they moved in. The camera was fixed over the cowshed and had a full view of the service tenancy house they resided in. To protect their privacy, they kept the curtains closed all day. These matters caused Mr Johnstone and Mrs Johnstone considerable stress. They came to regard the situation as unmanageable and untenable.

[12] Mr Johnstone and Mrs Johnstone worked in their roles for Mr Singh for thirteen days from 1 June 2021 to 13 June 2021. They decided it was in their best interests to move on. They now seek to recover wages they have not been paid for the thirteen days that they worked for Mr Singh.

[13] I accept Mr Johnstone's and Mrs Johnstone's unchallenged evidence that they are owed arrears of wages by Mr Singh.

[14] I find that Mr Johnstone is owed arrears of wages of \$2,900.00.

[15] I find that Mrs Johnstone is owed arrears of wages of \$1,731.00.

### **The outcome**

[16] Being satisfied that there has been default in payment by Robbie Singh to Mr Johnstone and Mrs Johnstone under their employment agreements, and pursuant to section 131 of the Employment Relations Act 2000 (the Act), I make these orders: -

- (a) Robbie Singh is ordered to pay to Paul Johnstone within 28 days of the date of this determination the gross sum of \$2,900.00 (Two thousand nine hundred dollars) as arrears of wages.
- (b) Robbie Singh is ordered to pay to Sheryl Johnstone within 28 days of the date of this determination the gross sum of \$1,731.00 (One thousand seven hundred and thirty-one dollars) as arrears of wages.
- (c) Robbie Singh is ordered to pay to Paul Johnstone within 28 days of the date of this determination the sum of \$71.56 (Seventy-one dollars and fifty-six cents) being reimbursement of the lodgement fee on this application.

[17] As Paul Johnstone and Sheryl Johnstone have stood out of the monies due to them since 13 June 2021 I consider it appropriate that they be awarded interest on the judgment sums above. The Authority has the power to award interest under clause 11 of the 2nd Schedule of the Act.

[18] Robbie Singh is ordered to calculate and pay interest within 28 days of the date of this determination on the judgment sums above at 16(a) and 16(b) above. Interest is to be calculated from 13 June 2021 until the judgments sums at 16(a) and 16(b) above are paid in full.

[19] Interest is payable in accordance with Schedule 2 of the Interest on Money Claims Act 2016. A calculator to assist in the calculation of interest is available on the Ministry of Justice website.

### **Costs**

[20] As the parties were self-represented, I do not expect them to have incurred any costs of professional representation. There will be no order on costs.

Leon Robinson  
Member of the Employment Relations Authority