

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

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

[2022] NZERA 613  
3190779

BETWEEN

JACQUALINE RAYNOR  
Applicant

AND

THE MINISTRY OF  
BUSINESS, INNOVATION  
AND EMPLOYMENT  
Respondent

Member of Authority: Rowan Anderson

Representatives: Applicant in person  
Natasha Self, counsel for the Respondent

Investigation Meeting: On the papers

Submissions received: 11 and 14 November 2022 from Applicant  
17 November 2022 from Respondent

Determination: 22 November 2022

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Jacqueline Raynor has applied to the Authority seeking a review of a decision made by Inland Revenue declining her application for paid parental leave under the Parental Leave and Employment Protection Act 1987 (PLEP Act). The reason given by Inland Revenue for its decision was that Ms Raynor had not worked at least 26 of the 52 weeks before her expected due date.

[2] Ms Raynor claims that she lost her job on 4 December 2021 through no fault of her own and where she would otherwise have continued to work. She seeks a reversal of the decision based on special circumstances.

[3] For reasons that follow, I need not consider Ms Raynor’s claim for payment based on special circumstances. Instead, the issue I must determine is whether Ms Raynor met the relevant threshold for entitlement to parental leave payments. If so, it follows that Inland Revenue’s decision should be reversed.

**Did Ms Raynor meet the parental leave payment threshold test?**

[4] The decision declining Ms Raynor’s application for paid parental leave was made on the basis that she had not worked at least 26 weeks of the 52 weeks immediately before her expected due date. There is no dispute that Ms Raynor otherwise met the requirements for receipt of parental leave payments.

[5] Section 2BA(4) of the PLEP Act sets out the threshold test for entitlement to parental leave payments:

**2BA Thresholds for entitlements**

...

*Parental leave payment threshold test*

(4) In this Act, the following test is used to determine a person’s entitlement to parental leave payments (the **parental leave payment threshold test**):

(a) an employee meets the parental leave payment threshold test if he or she will have been employed as an employee for at least an average of 10 hours a week for any 26 of the 52 weeks immediately preceding—

(i) the expected date of delivery of the child (in the case of a child (in the case of a child to be born to the person or his or her spouse or partner); or

(ii) the first date on which the person, or his or her spouse or partner becomes the primary carer in respect of the child (in any other case):

...

...

[6] At a case management conference on 2 November 2022, I issued directions requiring Ms Raynor to provide further information regarding her employment in the 52 weeks immediately prior to her expected due date. The information provided by Ms Raynor shows that she worked an average of more than 10 hours per week as follows:

(a) 9 weeks between 4 October 2021 and 4 December 2021 with one employer;

and

(b) 16 weeks between 25 May 2022 and 12 September 2022 for a second employer

[7] Ms Raynor received payment from the second employer, including for 22 hours of annual leave, for the period 12 September 2022 to 25 September 2022. That

represents a period of one further week than was initially apparent. I find that Ms Raynor was employed as an employee, for at least an average of 10 hours a week, for at least 26 of the 52 weeks immediately preceding the expected date of delivery of her child.

### **Conclusion**

[8] The Authority has discretion to confirm, modify, or reverse the decision of the department in accordance with 71ZB of the PLEP Act.

[9] I am satisfied that the information provided by Ms Raynor met the parental leave payment threshold test and should receive parental leave payments.

[10] Ms Raynor is entitled to paid parental leave and the decision declining her application is reversed.

Rowan Anderson  
Member of the Employment Relations Authority