

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2023] NZERA 426
3174403

BETWEEN LANCE KERRY-HOPWOOD
 MORRELL
 Applicant

AND ELITE COATINGS (2017) LIMITED
 Respondent

Member of Authority: Helen Doyle

Representatives: Keshila Fayen, advocate for the Applicant
 No appearance for the Respondent

Investigation Meeting: On the papers

Submissions Received: From the Applicant 28 June 2023
 From the Respondent no submissions

Date of Determination: 8 August 2023

COSTS AND HOLIDAY PAY DETERMINATION OF THE AUTHORITY

Substantive determination

[1] The Authority in a substantive determination dated 14 June 2023 provided Elite Coatings (2017) Limited (Elite Coatings) with an opportunity to comment on a holiday pay assessment and a claim for interest on unpaid wages. There had been no appearance on behalf

of Elite Coatings at the investigation meeting and these matters were not claimed in the statement of problem.¹

[2] Elite Coatings did not respond.

[3] The Authority reserved the issue of costs in its substantive determination and set a timetable for submissions.

[4] The Authority received submissions on costs from Lance Morrell but did not receive submissions from Elite Coatings within the timeframe set out in the determination.

[5] This determination determines holiday pay owing, interest on unpaid wages and holiday pay and costs.

Holiday pay

[6] The Authority in the substantive determination assessed the amount owing for holiday pay for the short period of employment as \$267.60 gross which is 8% of \$3,345 gross. No response was received from Elite Coatings that the amount was not owed or otherwise incorrect.

[7] Elite Coatings is ordered to pay to Lance Morrell the sum of \$267.60 gross being holiday pay.

Interest

[8] The Authority has power to award interest under clause 11 of the Second Schedule of the Employment Relations Act 2000 (the Act). This is to be calculated in accordance with Schedule 2 of the Interest on Money Claims Act 2016.

[9] I conclude this is an appropriate case to award interest on the amounts outstanding for unpaid wages assessed as \$1178 net and holiday pay of \$267.60 gross. The last day of employment was 9 April 2022. As stated in the substantive determination the Authority was

¹ *Lance Kerry-Hopwood Morrell v Elite Coatings (2017) Limited* [2023] NZERA 313.

mind to award interest on the unpaid wages and holiday pay from 11 April 2022 which is the first working day after 9 April 2022.

[10] I order Elite Coatings to pay to Lance Morrell interest in the sum of \$53.32 on the unpaid wages of \$1178 net.

[11] I order Elite Coatings to pay to Lance Morrell interest in the sum of \$12.11 on the unpaid holiday pay of \$267.60 gross.

Costs

[12] Ms Fayen has provided submissions as to costs.

[13] The actual costs incurred by Mr Morrell after mediation are \$2,937.50 exclusive of GST and a filing fee of \$71.56. Ms Fayen submits that following mediation an agreement was lodged with the Ministry of Business, Innovation and Employment but there was no sign-off of that agreement on behalf of Elite Coatings. Ms Fayen seeks half a day's tariff and any increase that the Authority may assess and reimbursement of the \$71.56 application fee.

[14] The investigation meeting was for a period of two hours. The Authority is aware of the additional costs incurred because of the adjournment of an earlier meeting date when it was understood a settlement agreement would be signed. When it was not signed there was a need to set the matter down for a further investigation meeting.

[15] It is appropriate in the circumstances to assess costs based on half of the daily tariff in the sum of \$2,250 together with reimbursement of the filing fee of \$71.56.

Summary of orders made

[16] Elite Coatings (2017) Limited is ordered to pay to Lance Morrell:

- (a) The sum of \$267.60 gross being holiday pay.
- (b) Interest on unpaid wages from 11 April 2022 to the date of this determination in the sum of \$53.32.

- (c) Interest on holiday pay from 11 April 2022 to the date of this determination in the sum of \$12.11.
- (d) Costs in the sum of \$2,250.
- (e) Reimbursement of the filing fee of \$71.56.

Helen Doyle
Member of the Employment Relations Authority