

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2024] NZERA 701
3306620

BETWEEN	HANNAH FIELD Applicant
AND	NEW ZEALAND TRANSPORT ENGINEERS LIMITED First Respondent
AND	ALANA PEARSON Second Respondent

Member of Authority: Shane Kinley

Representatives: Applicant in person
No appearance for the Respondents

Investigation Meeting: On the papers

Further information: From the applicant on 17 September 2024

Determination: 25 November 2024

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Hannah Field raised a claim of unpaid wages against New Zealand Transport Engineers Limited (NZTEL) for wages she said she had not be paid from October and December 2023 and January 2024.

[2] The respondents have not substantively engaged in relation to this matter.

The Authority's investigation

[3] A case management conference was held in relation to this matter on 3 September 2024 with Ms Field.

[4] An Authority Officer had previously contacted Alana Pearson, who at the relevant time was sole Director and shareholder of NZTEL. She advised Shaun Pearson was the appropriate person to contact for the conference. Mr Pearson had previously spoken to an Authority Officer and confirmed correspondence in relation to this matter may be provided by email.

[5] The Authority Officer attempted to call Mr Pearson on the contact phone number provided for him but he did not answer the call and his voicemail said not to leave messages. I was satisfied NZTEL had been advised of the time of the conference, so it proceeded in the Pearsons' absence, as NZTEL had been advised it would.

[6] In light of the non-engagement by NZTEL and the Pearsons in relation to this matter, I directed of my own motion Ms Pearson be joined under s 221(a) of the Employment Relations Act 2000 (the Act) as the Second Respondent in relation to this matter. I considered this appropriate to "more effectually dispose of [this matter] ... according to the substantial merits and equities of the case" given Ms Pearson's role at the time as NZTEL's sole Director and shareholder.

[7] Following the conference I issued directions for this matter to be investigated on the papers, with an opportunity provided for NZTEL and Ms Pearson to engage with this matter. Timetable directions were also made for Ms Field to provide affidavit evidence so this matter could be investigated on the papers. I indicated I would reconsider the investigation process if NZTEL and/or Ms Pearson responded to the directions and a further case management conference was likely to then be required.

[8] Mr Pearson contacted the Authority Officer three days later and confirmed the directions had been received. He indicated awareness of the timetable and that he was potentially going to seek advice to resolve this matter. There has been no further contact from Mr Pearson or the respondents.

[9] Ms Field lodged affidavit evidence as directed on 17 September 2024 with supporting information attached.

[10] On 20 September 2024 the Authority Officer contacted the parties and advised this matter was currently with me for investigation on the papers. A final opportunity was provided for the respondents to seek leave to submit a Statement in reply and they were advised this "... Determination may otherwise be issued without their contribution".

[11] As the time for the respondents to seek leave to lodge a Statement in reply has passed and I am satisfied they were advised that this matter may be determined without their input if they did not seek such leave, I now proceed to issue this determination without their input, as permitted under cl 12 of sch 2 of the Act.

[12] As permitted by s 174E of the Act this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence received.

The issues

[13] The issues requiring investigation and determination were:

- (a) Whether Ms Field is owed arrears of wages and other money by NZTEL?
- (b) Should any party contribute to the costs of any other party (including the filing fee paid by Ms Field)?

Ms Field is owed arrears of wages and likely other money by NZTEL

[14] Ms Field claimed she was owed \$5,893.76 in unpaid wages from NZTEL. She provided payslips showing she was due this amount for the payments due on 26 October 2023, 7 December 2023 and 4 and 18 January 2024. She also provided bank statements which showed she had not received these payments, although payments were made for other amounts in other pay periods.

[15] She also provided a text message from Mr Pearson on 2 February (presumably 2024) which included the following:

Just and [sic] update, I'm getting some money in on Monday, so will have all your money paid out by Wednesday as Tuesday is a holiday ...

[16] Ms Field's affidavit said:

NZTE has not attempted to pay any of the \$5,893.76 and I have received no contact from them since February 2024 regarding my overdue wages.

I am currently waiting on the response from IRD regarding taxes, student loan and kiwisaver ... I have requested this information.

[17] I am satisfied based on the evidence provided Ms Field has established she is owed \$5,893.76 in unpaid wages from NZTEL. I find Ms Field is owed this amount by NZTEL as arrears of wages under s 131 of the Act.

[18] It appears more likely than not Ms Field is also owed arrears for Kiwisaver and Student Loan deductions recorded on her payslips due on 26 October 2023, 7 December

2023 and 4 and 18 January 2024, as well as employer Kiwisaver deductions. As Ms Field has not provided records from IRD confirming NZTEL did not pay these amounts on her behalf, I consider it appropriate to reserve my determination in relation to those amounts, so Ms Field can seek further orders should she receive IRD records showing those amounts were not paid by NZTEL.

Costs

[19] Ms Field represented herself in relation to this matter and does not seek an order for costs. She is however entitled to be reimbursed for the filing fee of \$71.55.

Orders

[20] For the above reasons I order New Zealand Transport Engineers Limited to pay, within 28 days from the date of this determination, Hannah Field arrears of wages in the amount of \$5,893.76 under s 131 of the Employment Relations Act 2000 and to reimburse her the filing fee of \$71.55.

Shane Kinley
Member of the Employment Relations Authority