

**CONTRACTUAL BENEFIT CLAIM  
WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**CITATION** : 2020 WAIRC 00043

**CORAM** : COMMISSIONER D J MATTHEWS

**HEARD** : TUESDAY, 7 JANUARY 2020

**DELIVERED** : FRIDAY, 17 JANUARY 2020

**FILE NO.** : B 142 OF 2019

**BETWEEN** : FIONA VAN HEERWAARDEN  
Applicant  
  
AND  
  
RICHARD JAMES TRAINER, THE TRUSTEE FOR THE M4  
UNIT TRUST  
Respondent

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**CatchWords** : Industrial law (WA) – Denied contractual benefit claim – Claimed entitlement to salary – Claim for denied contractual benefit upheld – Order issued – Name of respondent amended

**Legislation** : *Western Australian Industrial Relations Act 1979*

**Result** : Claim upheld

**Representation:**

Claimant : In person

Respondent : No appearance

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*Reasons for Decision*

(Given extemporaneously at the conclusion of proceedings – as edited by Commissioner Matthews)

- 1 The respondent has not appeared either in person or by representative today despite having been served with notice of the hearing and despite having been called by my Associate.
- 2 My Associate also informed me that there was no arrangement made whereby the respondent would appear by telephone or video or anything like that.
- 3 Accordingly, I decided to proceed in the absence of the respondent.
- 4 The claimant, Mrs Fiona van Heerwaarden, brings a claim for denied contractual benefits relating to a period of employment she had with the respondent. She named the respondent as The Trustee for the M4 Unit Trust. She gave evidence that Richard James Trainer was the trustee and I will amend the name of the respondent to Richard James Trainer, the Trustee for the M4 Unit Trust.
- 5 The claimant gave evidence she was employed by the respondent from 11 February 2019 to 29 March 2019 and she gave evidence that she was to be paid \$25 per hour. Exhibit 1 supports this, it being an offer of employment which offers the claimant casual employment at the rate of \$25 per hour.
- 6 The claimant gave evidence that she worked five and a half hours on three days in each week, giving a total of 111 hours for the period of 11 February 2019 to 29 March 2019.
- 7 The claimant also gave evidence that she received by way of payment from the respondent for her work an amount of \$1,553, that is a net figure, being after tax. The claimant's calculations, which I accept, is that amount reflects a gross amount of \$1,949.13.
- 8 The claimant's calculation, which I accept, is that 111 hours of work at \$25 per hour is an amount of \$2,775 which means that she has not been paid, on her calculation which I accept, an amount of \$825.87.
- 9 So having heard evidence from the claimant which goes unchallenged, and which I accept in its totality, there being absolutely no reason based on the presentation of the claimant in the hearing room today as to why I ought not accept her as a credible and believable person, I accept the respondent has underpaid the claimant the amount of \$825.87, or put another way, has denied her a contractual benefit in that sum and therefore I order that the respondent herewith pay to the claimant the sum of \$825.87.