

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2024] NZERA 459
3281119

BETWEEN	JOEL ARENDS Applicant
AND	WESTWOOD PROPERTY GROUP LIMITED Respondent

Member of Authority: Sarah Kennedy-Martin

Representatives: No appearance from the Applicant
Steve Pilbrow for the Respondent

Investigation Meeting: 20 June 2024 in Masterton

Determination: 29 July 2024

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Joel Arends claims he was an employee of Westwood Property Group Limited (WPGL) and says he was unjustifiably dismissed. He seeks lost wages and compensation under s 123(1)(c)(i) of the Employment Relations Act 2000 (the Act).

[2] On 19 June 2024, the day before the investigation meeting, Mr Arends' representative contacted the Authority, saying she had been unable to contact Mr Arends and sought an adjournment. The adjournment was declined after Mr Arends' representative confirmed Mr Arends was provided with documents after the case management teleconference that included the date of the investigation meeting.

[3] Steve Pilbrow attended on behalf of WPGL. WPGL denies Mr Arends was an employee, saying at the time Mr Arends stopped working, he was a director and shareholder of another company incorporated as part of a partnership arrangement between Mr Pilbrow and Mr Arends.

[4] In Mr Arends' absence he has been unable to establish a case to answer. I am also satisfied the notice of investigation meeting was served to Mr Arends' address for service as advised to the Authority. Mr Arends' advocate, before withdrawing, confirmed Mr Arends was aware of the date of the investigation meeting and the Authority received no response from the Authority Officer's attempts to contact Mr Arends directly after his advocate withdrew. Included in the notice of investigation meeting Mr Arends received, is advice that if the applicant does not attend the investigation meeting the matter may be dismissed.¹

Outcome

[5] Mr Arends' claims against Westwood Property Group Limited are dismissed.

Costs

[6] Costs are reserved. If the parties are unable to resolve costs, and an Authority determination on costs is needed, Westwood Property Group Limited may lodge, and then should serve, a memorandum on costs within 28 days of the date of this determination. From the date of service of that memorandum Mr Arends will then have 14 days to lodge any reply memorandum. On request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted.

[7] The parties can anticipate the Authority will determine costs, if asked to do so, on its usual "daily tariff" basis unless circumstances or factors, require an adjustment upwards or downwards.²

Sarah Kennedy-Martin
Member of the Employment Relations Authority

¹ Employment Relations Act 2000, sch 2, cl 12 and Employment Relations Authority Regulations 2000, sch 1, form 8.

² For further information about the factors considered in assessing costs see:
www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1