

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2024] NZERA 40
3250499

BETWEEN ABIGIL ATKINS
Applicant

AND ALPINE 182 DEGREES
LIMITED
First Respondent

Member of Authority: Sarah Kennedy-Martin

Representatives: Maryline Suchley, Advocate for the Applicant
No appearance for the Respondent

Investigation meeting: On the papers

Determination: 25 January 2024

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Abigail Atkins seeks an order that Alpine 182 Degrees Limited (Alpine) comply with the orders made in two Authority determinations dated 23 June 2023 and 11 September 2023.¹

[2] On 23 June 2023 the Authority ordered Alpine to make the following payments:

- (a) Lost remuneration in the sum of \$1,280.00 (gross);
- (b) Compensation of \$25,000.00;
- (c) Annual leave arrears in the sum of \$1,120.00; and
- (d) Wage arrears in the sum of \$2,817.00.

¹ *Abigail Atkins v Alpine 182 Degrees Ltd* [2023] NZERA 334 and [2023] NZERA 520.

[3] On 11 September 2023 the Authority ordered Alpine to pay Ms Atkins costs in the amount of \$4,500.00.

[4] Alpine did not attend the investigation meeting or engage in any way with the Authority's investigation into Ms Atkins employment relationship problem. Ms Atkins has confirmed she has not received any payments in accordance with either of the determination. The Authority was informed there have been repeated attempts by a debt collection agency to recover the debt for Ms Atkins but Mr Wallace on behalf of Alpine has not engaged and refuses to communicate.

[5] Ms Atkins seeks an order that Alpine comply with both determinations together with interest, costs and reimbursement of the filing fee of \$71.55.

Should a compliance order be made?

[6] A compliance order may be made when any person has not observed or complied with a determination of the Authority.² Given that Alpine has not paid any of the amounts ordered in the two Authority determinations set out above to Ms Atkins, I consider it is appropriate to make a compliance order requiring Alpine to comply with the orders set out in the first determination issued on 23 June 2023³ and the second determination issued on 12 September 2023.⁴

Interest and costs

[7] The Authority has the power to award interest.⁵ Interest is to reimburse someone for the loss of the use of monies to which there is an established entitlement. It is appropriate where a person had been deprived of the use of money to make an award for interest.

² Employment Relations Act 2000, s 137(1)(b).

³ *Abigail Atkins v Alpine 182 Degrees Limited* [2023] NZERA 334.

⁴ *Abigail Atkins v Alpine 182 Degrees Limited* [2023] NZERA 520.

⁵ Employment Relations Act 2000, schedule 2, clause 11 and Interest on Money Claims Act 2016, schedule 2.

[8] Alpine will be ordered to pay interest using the civil debt calculator⁶ on the total amounts outstanding until the date the money is paid in full.

[9] Ms Atkins seeks costs in relation to this application. I consider that a contribution towards costs in the amount of \$500.00 would be appropriate.

Orders

[3] I order that Alpine 182 Degrees Limited:

- (a) Comply with the Authority's first and second determinations of the Authority within 14 days of this determination and pay Ms Atkins \$30,217.00 and \$4,500.00 respectively.
- (b) Pay interest to Ms Atkins using the civil debt calculator on the two amounts outstanding from 23 June 2023 and 12 September 2023 respectively until the date the money is paid in full.
- (c) Pay costs to Ms Atkins in the amount of \$500.00 and the filing fee of \$71.55.

Sarah Kennedy-Martin
Member of the Employment Relations Authority

⁶ <https://www.justice.govt.nz/fines/civil-debt-interest-calculator/>