

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**[2014] NZERA Auckland 88  
5444159**

BETWEEN                      JIOLALY BASILIO  
   Applicant  
  
AND                                NORAJANE COLOS  
   First Respondent  
  
   E-JOBS LIMITED  
   Second Respondent (Struck Off)

Member of Authority:        Eleanor Robinson  
  
Representatives:             Oliver Christeller, Counsel for Applicant  
   Norajane Colos, Advocate for Respondents  
  
Investigation Meeting:      On the Papers  
  
Determination:                13 March 2014

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1]      On 13 November 2013 a Record of Settlement (the Settlement) was signed under s. 149 of the Employment Relations Act 2000 (the Act). The parties to the Settlement were the Applicant, Ms Jiolaly Basilio, and the Respondents, Ms Norajane Colos and E-Jobs Limited. The Settlement was signed by Ms Basilio and Ms Colos, sole Director of E-Jobs Limited. The Record was also signed by a Mediator employed by the Ministry of Business, Innovation and Employment.

[2]      The issue which had been brought before the Authority by Ms Basilio is that the Respondents have not complied fully with clauses 2 and 3 of the Settlement, which state:

*2. The Respondent shall pay the compensatory sum of in terms of section 123(1)(c )(i) of the Employment Relations Act 2000. This amount will be paid to the Applicant by way of direct credit as follows:*

*i)        \$2,000 by or on 13 December 2013; and*

ii) \$1,000 by or on 13 January 2014

3. *The Respondent will pay the Applicant any outstanding salary and leave entitlements calculated to be \$3,000 (PAYE will be deducted from this amount). This amount will be paid as follows by direct credit:*

i) \$1,000 by or on 13 January 2014 (PAYE will be deducted from this amount); and

ii) \$2,000 by or on 13 February 2014 (PAYE will be deducted from this amount).

[3] The Settlement further provided at clause 4:

*Norajane Colos and the Respondent are jointly and severably liable to make the payments set out in clauses 2 and 3 of this agreement.*

[4] The Settlement was certified under s 149 of the Act by the Mediator. That certification confirmed that before making the agreement, the parties were advised and accepted they understood the agreed terms:

- a. were final, binding and enforceable; and
- b. could not be cancelled; and
- c. could not be brought before the Authority or the court for review or appeal, except for the purposes of enforcing those terms.

[5] Mr Christeller, on behalf of Ms Basilio stated that the Respondents had made no payments in accordance with the terms of the Settlement.

### **Compliance Order**

[6] I am satisfied that the Respondents have not complied with the terms of the Settlement.

[7] Ms Colos attributed the reason for non-payment of the outstanding sums to the poor financial situation of the Second Respondent.

[8] From the evidence available to the Authority, I am satisfied that the Respondents have breached clauses 2 and 3 of the Settlement

[9] I determine that the Respondents have failed to comply with clauses 2 and 3 of the Settlement.

[10] **In order to effect compliance with clauses 2 and 3 of the Settlement, I therefore order Ms Colos to pay Ms Basilio, no later than 14 days from the date of this determination, the outstanding amounts under clauses 2 and 3, these being:**

- i) **the sum of \$3,000.00, in accordance with clause 2 of the Settlement, and**
- ii) **the sum of \$2,475.00 net in accordance with clause 3 of the Settlement .**

#### **Costs**

[11] Costs are reserved. The parties are encouraged to agree costs between themselves. If they are not able to do so, the Applicant may lodge and serve a memorandum as to costs within 28 days of the date of this determination. The Respondents will have 14 days from the date of service to lodge a reply memorandum. No application for costs will be considered outside this time frame without prior leave.

**Eleanor Robinson**  
**Member of the Employment Relations Authority**