

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Sandra Blockley & Paul Tuckley (Applicant)  
**AND** Kensington Consulting Group Limited (Respondent)  
**REPRESENTATIVES** Sandra Blockley & Paul Tuckley In person  
Susan Harris & Ashely Harris for Respondent  
**MEMBER OF AUTHORITY** Leon Robinson  
**INVESTIGATION MEETING** 22 February 2005  
**DATE OF DETERMINATION** 23 February 2005

**DETERMINATION OF THE AUTHORITY**

[1] The Applicants seek to have the Respondent Kensington Consulting Group Limited (“KCG”) comply with an earlier determination of the Authority in their favour<sup>1</sup>.

[2] In that earlier determination of 4 September 2003, the Authority ordered:-

- (a) *KCG is to pay to Mr Tuckley and Ms Blockley one month’s salary each, calculated at 1/12 of their respective annual salaries as at the date of termination;*
- (b) *KCG is to pay to Mr Tuckley and Ms Blockley a further three days pay each, plus 6% on that amount; and*
- (c) *KCG is to pay Ms Blockley the sum of \$1,000.00 under s123(c)(i) of the Employment Relations Act 2000.*

[3] The Applicants’ representative proposed a payment plan to KCG. That proposal was rejected. KCG proposed a counter-offer payment plan which did not elicit a response from the Applicants or their representative.

[4] The Respondent then unilaterally commenced monthly instalments of \$250.00 per month to each Applicant. It did so until August 2004. It did not pay anything in September or November 2004. It paid to each Applicant \$100.00 in October 2004, \$50.00 in December 2004 and \$10.00 in January 2005. In total it has paid \$2,410.00 to each Applicant. Mr Tuckley is now owed \$2,368.40 and Ms Blockley \$1,842.00.

[5] The Applicants apply to the Authority for a compliance order to enforce the Authority’s

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<sup>1</sup> *Sandra Blockley and Paul Tuckley & Kensington Consulting Group Limited*, unreported, AEA274/03, 4 September 2003, R A Monaghan

earlier determination. They say they are prepared to accept \$250.00 per month and also desire better communication from KCG. Mr Tuckley says any lesser instalment amount ought to attract interest. The Applicants say that a payment plan over one year is acceptable to them.

[6] KCG's directors Mrs Susan Harris and Mr Ashley Harris tell the Authority that KCG has not traded since June 2003. They say the company remains registered only to meet present arrangements with creditors. They say the company has no assets but has liabilities of \$150,000.00 including the amounts owed to the Applicants.

[7] Mrs Harris says the company is marketing to attract new business but she did not articulate any particulars of those efforts. It appears there are no confirmed or definite sources of revenue, but rather, only a hope of generating income streams in the future.

[8] Mrs Harris suggests an instalment plan between \$20.00 - \$50.00 per month and says anything more is unrealistic. She says interest would similarly be unrealistic and serve only to further delay the discharge of the debt. Mr and Mrs Harris lament that they did not dissolve the company and say that they will have no option but to do so if any instalment plan does not have regard for KCG's present financial circumstances.

[9] KCG makes clear its desire and intention to meet the orders made by the Authority in the earlier determination. The Applicants accept that KCG has limited means to meet its obligations to them.

[10] I am satisfied that KCG has not complied with the Authority's earlier determination and that the sum of \$2,368.40 remains due and payable to Mr Tuckley and the sum of \$1,842.00 remains due and payable to Ms Blockley. It is appropriate to order compliance with the Authority's earlier determination. The financial position of the company requires that payment be made to the Applicants by instalment.

[11] KCG was not trading while monthly instalments of \$250.00 proceeded from December 2003 to August 2004. Mr and Mrs Harris could not explain to my satisfaction any supervening event or circumstance to cause the instalments in that quantum to cease as from September 2004. Despite it having no revenue, the Applicants were still paid. Mr Harris initially said the Applicants were paid from directors fees, but he recanted that initial evidence when Mrs Harris abruptly interrupted him.

[12] I accept Mrs Harris' advice that KCG exists presently with the sole purpose of meeting arrangements with creditors. The order presently sought then is entirely consistent with that purpose and I am satisfied that these Applicants should join that same queue.

[13] The Applicants are realistic about KCG's unfortunate financial situation. They are generous in regarding a one year payment period as acceptable. They are entitled to have the benefit of the earlier determination in their favour. They shall have a compliance order in their favour which has regard for these factors.

**[14] Kensington Consulting Group Limited is ordered to pay to Sandra Blockley the sum of \$1,842.00 by 10 monthly instalments of \$184.20 to be direct credited to a bank account nominated by Sandra Blockley on the 20th of each calendar month hereafter.**

**[15] Kensington Consulting Group Limited is ordered to pay to Paul Tuckley the sum of \$2,368.40 by 10 monthly instalments of \$236.84 to be direct credited to a bank account nominated by Paul Tuckley on the 20th of each calendar month hereafter.**

[16] The orders at paragraphs 14 and 15 above are to be complied with by 20 December 2005.

[17] The Applicants shall have their costs on this application. Those costs include a filing fee of \$70.00 and postage/courier fees of \$23.10. **Kensington Consulting Group Limited is ordered to pay to Paul Tuckley the sum of \$46.55 and Sandra Blockley the sum of \$46.55 within fourteen days of the date of this determination.**

**Leon Robinson**  
**Member of Employment Relations Authority**