

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2013] NZERA Wellington 63
5384854

BETWEEN LISA BOTTIN
 Applicant

AND BARRY LAIDLER
 Respondent

Member of Authority: Michele Ryan

Representatives: Applicant in person
 Respondent in person

Investigation Meeting: 17 May 2013

Determination: 29 May 2013

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant, Ms Lisa Bottin, claims that her former employer, Mr Barry Laidler, is in breach of a previously agreed record of settlement, by failing to pay monies due to her pursuant to the terms of that settlement.

Relevant information

[2] In the course of a previous investigation meeting held on 19 September 2012, Ms Bottin and Mr Barry Laidler reached an agreement to resolve an employment relationship problem between them. The terms of agreement were set out in a settlement agreement and a consent determination was issued by the Authority¹.

[3] Ms Bottin provided an amended statement of problem on 25 March 2013. She claims Mr Laidler did not comply with payment of instalment arrangements agreed between them and set out in the terms of the settlement agreement. Ms Bottin sought a compliance order, reimbursement of the filing fee and interest on the sums owed.

¹ [2012] NZERA Wellington 104

[4] Mr Laidler did not file a statement in reply or participate in a scheduled telephone conference. The Authority set the matter down for investigation on 17 May 2013.

[5] Mr Laidler attended the Authority's investigation.

[6] The record of settlement contains a confidentiality provision. However for the purposes of enforcement action it is necessary to refer to details of the terms of settlement.

[7] The settlement agreement provided that Mr Laidler was to pay Ms Bottin the sum of \$387.50 on the 30th of each month for six consecutive months commencing 30 September 2012.

[8] Mr Laidler acknowledged he had not complied with the terms of the settlement agreement. The evidence was that he had deposited \$775.00 into Ms Bottin's bank account on 9 November 2012 as partial payment. No other payments were made until the scheduled investigation meeting when Mr Laidler brought evidence of a further payment deposited into Ms Bottin's bank account earlier that morning for the sum of \$500.00.

[9] Mr Laidler reported to the Authority that in the ensuing months between the execution of the settlement agreement and the current investigation meeting he suffered poor health and on-going financial difficulties which he says prevented him from honouring his obligations to Ms Bottin.

[10] Communication between Ms Bottin and Mr Laidler during the investigation meeting was affable and supportive despite Mr Laidler's failure to comply with the previously agreed instalment arrangements. Ms Bottin volunteered to withdraw her application for reimbursement of the filing fee and interest on the sums owed. Mr Laidler accepted that that the sum of \$1,050.00 remained outstanding and refreshed his commitment to pay the sums of money owed to Ms Bottin.

[11] I am satisfied that Mr Laidler breached the terms of the settlement agreement dated 19 September 2012 and that Ms Bottin is owed \$1,050.00.

Orders

[12] Pursuant to s. 137 of the Employment Relations Act I order Mr Laidler to comply with the record of settlement and pay the sum of \$1,050.00. to Ms Bottin. Payment of this sum must be made on or by 14 June 2013.

[13] Under s. 138(4A) of the Act the Authority may order payment to the employee by instalments but only if the financial position of the employer requires it. Mr Laidler provided evidence of a debt repayment plan between himself and IRD however I do not consider this documentation was sufficient to evidence an inability to meet his obligations to Ms Bottin on or by 14 June 2013.

[14] Should Mr Laidler fail to comply with the order at paragraph [12] the attached Certificate of Determination may be filed in any District Court, and is enforceable in the same manner as an order made or judgement given by the District Court².

[15] Neither Ms Bottin or Mr Laidler were represented. No order for costs is made.

Michele Ryan
Member of the Employment Relations Authority

² Pursuant to s.141 of the Employment Relations Act