

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

**[2021] NZERA 199
3105632**

BETWEEN

BROOK CHURCHOUSE
Applicant

AND

BACCHUS GENUS LIMITED
Respondent

Member of Authority: Eleanor Robinson
Representatives: Jennifer Silva, advocate for Applicant
No appearance for Respondent
Investigation Meeting By telephone on 11 May 2021
Determination: 12 May 2021

DETERMINATION OF THE AUTHORITY

Application for compliance order

[1] The Applicant, Mr Brook Churchouse, has applied to the Authority under s 137 of the Employment Relations Act 2000 (the Act) for an order requiring the Respondent, Bacchus Genus Limited, trading as The Good Home (BGL) to comply with the determination given by the Authority.

[2] In the determination issued on 16 April 2020 ([2020] NZERA 152), the Authority ordered BGL to pay Mr Churchouse the following sums of:

- (i) \$4000.00 in respect of humiliation, loss of dignity and injury to feelings, pursuant to s.123(1)(c)(1) of the Act.
- (ii) This sum was reduced by 30% for contribution to \$2,800.00.
- (iii) The filing fee of \$71.56.
- (iv) \$2,250.00 in respect of costs.

[3] The Applicant claims that he has not been paid the sums ordered by the Authority.

Note

[4] No Statement in Reply having been received from the Respondent, and no attendance by the Respondent on a scheduled case management conference call, the Authority couriered the Notice of Investigation to the trading address of the Respondent. Service was effected on 19 April 2021 and a signature of receipt obtained.

[5] I am satisfied that service has been properly effected.

[6] There was no appearance for BGL at the Investigation Meeting and an Authority Support Officer was unable to contact it on the day of the Investigation Meeting.

[7] Given the difficulties encountered in obtaining cooperation in the Authority's compliance investigations at any stage from BGL, I was satisfied that no good cause had been shown for its failure to attend and I consequently proceeded with the Investigation Meeting pursuant to clause 12 of Schedule 2 of the Act

Compliance Order

[8] I am satisfied that BGL has not complied with the terms of the Authority's determination of 16 April 2020. It is just in the circumstances for an order to be made requiring BGL to comply with the determinations.

[9] BGL is ordered to pay Mr Churchouse \$5,121.56 pursuant to the Authority's determination [2020] NZERA 152 within 14 days of the date of this determination.

Interest

[10] The default in failing to pay the ordered amounts pursuant to determination [2020] NZERA 152 has caused Mr Churchouse financial stress and I consider it is appropriate that BGL is ordered to pay interest on the outstanding sums owed to Mr Churchouse.

[11] BGL is to pay interest at the rate prescribed in the Interest on Money Claims Act 2016 on the outstanding sums due to Mr Churchouse from the date of determination until the amounts owed are paid in full.

Filing Fee

[12] BGL is also to pay \$71.56 to Mr Churchouse the fee on the application for the Compliance Order.

Penalty

[13] Ms Silva has applied for a penalty, however breach of an Authority determination ordering remedies does not fall under s 134A, but is a matter in which interest may be awarded for non-compliance.

[14] Accordingly I have so ordered.

Effect of further non-compliance

[15] BGL is advised that if it does not observe or comply with this Compliance Order the Employment Court may do 1 or more of the following pursuant to s 140 (6) of the Act:

...

(c) order that the person in default be sentenced to imprisonment for a term not exceeding 3 months;

(d) order that the person in default be fined a sum not exceeding \$40,000;

(e) order that the property of the person in default be sequestered.

Costs

[16] This matter was determined 'by telephone', occupied a short investigation meeting and the costs are awarded in respect of this compliance application only. I order BGL to contribute \$500.00 towards Mr Churchouse's actual costs, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

Eleanor Robinson
Member of the Employment Relations Authority