

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2021] NZERA 305  
3133696

BETWEEN

MURRAY COUSENS  
Applicant

AND

STAR NELSON HOLDINGS  
LIMITED  
Respondent

Member of Authority: David G Beck

Representatives: Paul Mathews, advocate for the Applicant  
No appearance for the Respondent,

Investigation Meeting: 3 July 2021 by telephone

Submissions Received: 3 July from the Applicant  
None from the Respondent

Date of Determination: 19 July 2021

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] In a determination issued on 15 February 2021 the Authority found an established personal grievance of unjustified dismissal and ordered Star Nelson Holdings Limited to pay Murray Cousins:

- (i) Compensation of \$25,000.00
- (ii) lost wages of \$6,131.12

(iii) A penalty award of \$2,000

(iv) Legal costs of \$3,000

[2] The above compensatory awards have not been paid by Star Nelson Holdings Limited and Murray Cousens seeks a compliance order pursuant to section 137(1)(b) Employment Relations Act 2000 (“the Act”).

### **The Authority’s investigation**

[3] Star Nelson Holdings Limited’s director Stuart Biggs did not respond to Murray Cousens’ statement of problem or appear at the investigation meeting but he did participate in a directions teleconference that directed a timeline for exchange of evidence and submissions that Mr Biggs then failed to comply with. This approach of Mr Biggs is consistent with past dealings the Authority has had with him on this and other matters. Mr Biggs did not attend mediation when directed or the Investigation meeting of 3 February 2021 on the substantive matter and he did not provide any defence to Mr Cousens’ claims.

[4] The only communication the Authority had on this matter relating to the substantive determination was an email from Mr Biggs of 16 March 2021 in which he indicated that he had been on leave unable to “compile a defence”. He claimed he had notified the Authority that he could not attend the 3 February investigation meeting and he wanted the Authority to consider the “confused environment during COVID 19 with mixed and changing messages from Government”.

[5] Mr Biggs, who was not represented in these proceedings, said he wished to deal with Mr Cousens directly in mediation but was not given this opportunity and “we are keen to state our case and have the matter resolved”. In the email he acknowledged receipt of Mr Cousens’ application for a compliance order.

[6] The Authority also allowed Mr Biggs until 21 June to file a statement in reply as he had claimed health reasons prevented him from organising this, but when asked to provide medical proof of such he ceased communications.

[7] I am satisfied that the proceedings were served on the company at the address for service in the Companies Register.

[8] Pursuant to s 174E of the Employment Relations Act 2000 (“the Act”), I make findings of fact and law and outline conclusions to resolve the disputed issue and make orders but I do not record all evidence.

[9] Mr Cousens’ advocate detailed unsuccessful attempts to obtain payment by emails of 17 February and 9 March 2021 to Mr Biggs that enclosed the determination and Certificate of Determination issued by the Authority – Mr Biggs ignored this communication.

[10] I also heard from Mr Cousens about the distress he is suffering in his claims not being resolved including financial difficulties.

### **Finding**

[11] I find that Star Nelson Holdings Limited have not paid any of the compensatory awards awarded by the Authority. The compliance order sought by Murray Cousens is appropriate and I grant it on the following terms.

### **Order**

[12] **By order of the Authority under s 137 Employment Relations Act 2000, Star Nelson holdings Limited is to pay to Murray Cousens no later than 14 days from the date of this determination:**

**(i) \$25,000.00 compensation for hurt and humiliation.**

**(ii) \$6,131.12 reimbursement of lost wages.**

**(ii) A penalty award of \$2,000**

**(ii) Costs of \$3,000 from the original proceedings and \$500 for these proceedings.**

**(ii) A filing fee of \$71.56.**

## **Costs**

[13] Costs are at the discretion of the Authority and here Murray Cousens was successful in his action for a compliance order and has sought a costs contribution to prepare his application and assist with a submission. I fix that at \$500. I also consider he should recover his filing fee.

David Beck  
Member of the Employment Relations Authority