



Employment Court of New Zealand

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Davidson v Kelly [2016] NZEmpC 132 (21 October 2016)

Last Updated: 27 October 2016

IN THE EMPLOYMENT COURT AUCKLAND

[\[2016\] NZEmpC 132](#)

EMPC 269/2014

IN THE MATTER OF an application to enforce a compliance order under [s 138](#) of the [Employment Relations Act 2000](#)

BETWEEN JUDITH ANN DAVIDSON Plaintiff

AND STEPHEN ROBERT KELLY Defendant

EMPC 282/2014

IN THE MATTER OF a challenge and an application to have a matter heard in the Employment Court under [s 139](#) of the [Employment Relations Act 2000](#)

AND BETWEEN JUDITH ANN DAVIDSON Plaintiff

AND STEPHEN ROBERT KELLY Defendant

Hearing: (by submissions dated 11 October 2016) Appearances: M Blomfield, advocate for the plaintiff Judgment: 21 October 2016

JUDGMENT (NO 6) OF JUDGE B A CORKILL

[1] On 4 December 2015, the parties reached an agreement to settle their differences, the essence of which was that Mr Stephen Kelly would pay Ms Judith Davidson the sum of \$300,000 in accordance with an agreed schedule of payments. One of the agreed terms was that the Court would make a compliance order if there

was a breach of the payment obligations.

JUDITH ANN DAVIDSON v STEPHEN ROBERT KELLY NZEmpC AUCKLAND [\[2016\] NZEmpC 132](#) [21

October 2016]

[2] Regrettably, non-compliance has resulted in the Court making compliance orders directing payment on five previous occasions.¹

[3] Mr Blomfield, advocate for the plaintiff, has now advised the Court that there are further defaults. He says payments of \$20,000 were due on 30 July, 30 August and 30 September 2016. However, the first of these was the subject of judgment No 5. Accordingly, the amount due at this stage is \$40,000.

[4] Despite an opportunity being provided to Mr Kelly's representative to respond, no submission has been filed.

[5] Accordingly, there is no reason that a further compliance order should not now be made in terms of the parties' agreement to that effect.

[6] I make a compliance order direction that Mr Kelly pay to Ms Davidson the sum of \$40,000 by 5.00 pm on Monday, 25 October 2016. If payment is not made, Ms Davidson will be at liberty to enforce payment of the debt.

[7] I reserve any issues as to interest payable from the date of the default, the date of payment, and as to costs in respect of Ms Davidson's application for the above compliance order. Although I was requested to consider the issue of costs now, I will defer doing so until the conclusion of the period for the making of the agreed payments.

B A Corkill

Judge

Judgment signed at 3.00 pm on 21 October 2016

1 *Davidson v Kelly* [\[2006\] NZEmpC 21](#); *Davidson v Kelly* [\[2016\] NZEmpC 41](#); *Davidson v Kelly* [\[2016\] NZEmpC 82](#); *Davidson v Kelly* [\[2016\] NZEmpC 90](#); *Davidson v Kelly* [2016] NZEmpC

108.

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