



Employment Court of New Zealand

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Davidson v Kelly [2016] NZEmpC 41 (15 April 2016)

Last Updated: 20 April 2016

IN THE EMPLOYMENT COURT AUCKLAND

[\[2016\] NZEmpC 41](#)

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

AND 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 4 and 15 April 2016) Appearances: M Beresford, counsel for the plaintiff

M Locke, counsel for the defendant

Judgment: 15 April 2016

JUDGMENT NO 2 OF JUDGE B A CORKILL

[1] This judgment is a sequel to a judgment which I issued on 15 March 2016.¹

¹ *Davidson v Kelly* [\[2016\] NZEmpC 21](#).

JUDITH ANN DAVIDSON v STEPHEN ROBERT KELLY NZEmpC AUCKLAND [\[2016\] NZEmpC 41](#) [15

April 2016]

[2] The background is fully set out in that judgment, and it is unnecessary to repeat it.

[3] In short, on 4 December 2015, the parties reached an agreement to settle differences, the essence of which was that Mr Kelly would pay Ms Davidson the sum of \$300,000 in accordance with an agreed schedule of payments. My first judgment related to a particular default which resulted in the Court making a compliance order directing payment of the sum of \$35,000 by 16 March 2016.

[4] Mr Beresford has advised the Court that a further payment of \$20,000 was due to be paid by Mr Kelly to Ms Davidson on 31 March 2016, but had not been received.

[5] In reply, Mr Locke says that Mr Kelly has been “energetically pursuing a business transaction that will enable him to rectify the regrettable defaults in payment”. Reference is also made to a medical condition which is affecting him. Although Mr Locke anticipates a transaction within the next 10 days, he says he can do no more at present and in those circumstances is unable to offer any basis as to why the Court should not accede to the enforcement steps which the plaintiff now requests.

[6] There is no reason why a compliance order should not now be made in terms of the parties' agreement to that effect.

[7] I make a compliance order directing that Mr Kelly pay Ms Davidson the sum of \$20,000 by 5.00 pm on 18 April 2016. If payment is not made, Ms Davidson will be at liberty to enforce payment of the debt.

[8] I reserve any issues as to interest payable from the date of default to the date of payment, and as to costs in respect of Ms Davidson's application for the above compliance order.

B A Corkill

Judge

Judgment signed at 2.45 pm on 15 April 2016

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