

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 417/10
5314010

BETWEEN HAYLEY ROSE FRYER
 Applicant

AND LESLEY THOMPSON
 TRADING AS RIVERSIDE
 CAFE
 Respondent

Member of Authority: Robin Arthur

Representatives: Simon Punshon for Applicant
 Respondent in person

Investigation Meeting: 20 September 2010

Determination: 20 September 2010

DETERMINATION OF THE AUTHORITY

- A. Lesley Thompson is ordered to comply with terms of settlement agreed with Hayley Fryer and certified under s149 of the Employment Relations Act (the Act) by paying \$2000 to Ms Fryer within 14 days of the date of this determination.**
- B. Ms Thompson is also to pay \$200 costs to Ms Fryer and reimburse her for the \$70 fee paid to lodge an application for a compliance order.**

[1] On 6 April 2010 Hayley Fryer and Lesley Thompson signed a record of settlement of an employment relationship problem. The certificate of the mediator, issued under s149 of the Act, confirmed Ms Fryer and Ms Thompson were told and had acknowledged that they understood the terms which they agreed were final, binding and enforceable.

[2] Payments agreed in those terms were not made and completed by the agreed date of 31 May 2010. On 30 July 2010, Ms Fryer applied for a compliance order. Ms Thompson did not exercise the opportunity to reply to that application. An Authority support officer was directed to make further inquiries through a solicitor who had acted for Ms Thompson at the time of the mediation. That inquiry was directed to Ms Thompson's accountant who provided further contact details for Ms Thompson.

[3] An investigation meeting was notified to the parties and held by telephone conference to minimise cost and inconvenience.

[4] Ms Thompson advised that she was no longer in business and had ceased trading through the café.

[5] While Ms Thompson expressed regret at the terms to which she had agreed, I consider I am bound to exercise the power granted to the Authority to order compliance with the terms of settlement agreed with Ms Fryer. For public policy reasons of certainty and finality, parties agreeing final, binding and enforceable terms then certified under s149 of the Act must abide by them. Under s137 of the Act Ms Thompson is ordered to comply within 14 days of the date of this determination with the terms of the agreement she made on 6 April 2010.

[6] If Ms Thompson does not comply with this order, further orders may be sought in the District Court for enforcement under s141 of the Act or in the Employment Court for fines and sequestration of property under s138(6) and s140(6).

[7] Ms Punshon advised that Ms Fryer had been legally aided for the initial stages of dealing with her employment relationship problem. She had sought, but not yet been granted, an application for extension of aid for the purposes of seeking compliance. In those circumstances I order Ms Thompson to also pay Ms Fryer \$200 as a reasonable contribution towards her costs in seeking a compliance order and a further \$70 in reimbursement of the fee for lodging an application in the Authority.

Robin Arthur
Member of the Employment Relations Authority