

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Mehdi Garayali (Applicant)
AND TT Master Company Limited (Respondent)
REPRESENTATIVES Mehdi Garayali In person
No appearance for Respondent
MEMBER OF AUTHORITY R A Monaghan
INVESTIGATION MEETING 26 April 2005
DATE OF DETERMINATION 26 April 2005

DETERMINATION OF THE AUTHORITY

[1] Mr Garayali and TT Master Company Limited are parties in a mediator's decision made in accordance with s 150 of the Employment Relations Act 2000. The mediator awarded Mr Garayali:

- (a) \$1,850 (gross) as holiday pay;
- (b) \$6,000 (gross) as redundancy pay.

[2] Despite making a written request for payment, Mr Garayali has not received any payment. He seeks an order for compliance with the mediator's decision, under s 137(1)(a)(iii) of the Act.

Failure to appear

[3] TT Master Company Limited did not appear and was not represented at the Authority's investigation meeting. No reason for the failure to appear was provided prior to the scheduled start time or during the 15 minutes after the scheduled start time. Since the company had filed a statement in reply, it was obviously aware of the proceedings. I was also satisfied that notice of the investigation meeting was served on it. I therefore proceeded without it under clause 12, Schedule 2 of the Act, and made the orders set out elsewhere in this determination.

[4] Two hours after the scheduled start time, and after the meeting had concluded, the Authority received by courier a letter from the company's managing director, Jack Park. The letter asserted it would be difficult for Mr Park to attend the meeting and he was going to England on personal business, and asked that the meeting be rescheduled for late June 2005. The letter attached a copy of an airline ticket in Mr Park's name, showing a departure date of 25 April 2005 and a date of issue of 11 April 2005. The letter contained no indication of why the need to attend to 'personal business' in England was such that Mr Park had to leave for England yesterday and could not be available for a meeting today. I note further that, according to the ticket, Mr Park will be spending the substantial period of his absence in the United States. That is unexplained.

[5] The letter was received too late, and in any event I am not satisfied it showed good cause for the failure to attend. The notice of investigation meeting was dated 6 April 2005 and was sent to

several addresses. Mr Park could and should have contacted the Authority before today. Had he done so, he would in any event have had to satisfy the Authority about the matters set out in the previous paragraph. Unless he did so, an adjournment would not have been granted.

Compliance order

[6] The company asserted in its statement in reply that it has no assets with which to meet the mediator's award, and that it has a significant financial liability. I do not accept that assertion in the absence of any other evidence.

[7] Accordingly TT Master Company Limited is ordered to pay immediately to Mr Garayali:

- (a)\$1,850 (gross) as holiday pay;
- (b)\$6,000 (gross) as redundancy pay; and
- (c)\$70 costs.

R A Monaghan
Member, Employment Relations Authority