

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Becky Haugh (Applicant)
AND Wired Communications Limited (Respondent)
REPRESENTATIVES Karina Tifaga, counsel for the applicant
No appearance by respondent
MEMBER OF AUTHORITY James Crichton
INVESTIGATION MEETING On the papers
DATE OF DETERMINATION 8 December 2006

DETERMINATION OF THE AUTHORITY

Application for compliance order

[1] The applicant (Ms Haugh) seeks a compliance order in respect to the alleged breach of a record of settlement dated 8 July 2005 between her and the respondent Wired Communications Ltd (WCL).

[2] Those terms of settlement which were signed by an officer of the Mediation Service pursuant to s.149(1) and (3) of the Employment Relations Act 2000 provided for the resolution of an employment relationship problem between these parties and required that WCL pay to Ms Haugh the sum of \$4,000 in eight instalments each of \$500.

[3] In effect, WCL has paid half of the required sum having failed to make scheduled payments on 1 November 2005, 1 December 2005, 1 January 2006 and 1 February 2006.

[4] In addition to a compliance order compelling payment of the outstanding sums pursuant to the settlement agreement, Ms Haugh also seeks a penalty of \$500 in terms of s.149(4) of the Employment Relations Act 2000 and costs.

Discussion

[5] I am satisfied that WCL has received a copy of the statement of problem through its Director and Shareholder Mr Shivnan. The Senior Support Officer at the Authority spoke with Mr Shivnan earlier this year and I am not satisfied that there is any reasonable excuse for Mr Shivnan to avoid the filing of a statement in reply and avoid the obligation to participate in the Authority's process. Accordingly, I apply Clause 12 of Schedule 2 of the Employment Relations Act 2000 and proceed to determine this matter now.

Determination

[6] I am satisfied that WCL has not complied with the record of settlement it entered into on 8 July 2005 and that there remains owing to Ms Haugh the sum of \$2,000. I direct that WCL is to pay that sum to Ms Haugh within fourteen days of the date of this determination.

[7] I am satisfied that this is an appropriate case for the awarding of a penalty in respect to the breach of a mediated settlement and I direct that WCL is to pay the sum of \$500 to Ms Haugh within fourteen days of the date of this determination.

[8] It is also appropriate that the question of interest be addressed. Ms Haugh has lost the use of the money which would otherwise have been received by her in accordance with the agreement. I award Ms Haugh interest at the rate of 7% pa on the outstanding balance as follows:

| | |
|--|-----------------|
| 7% on \$500 from 1 November 2005 to 30 November 2006 | \$38.00 |
| 7% on \$500 from 1 December 2005 to 30 November 2006 | \$35.00 |
| 7% on \$500 from 1 January 2006 to 30 November 2006 | \$32.00 |
| 7% on \$500 from 1 February 2006 to 30 November 2006 | <u>\$29.00</u> |
| | <u>\$134.00</u> |

[9] Finally, the question of costs arises. This is a case where a proper award of costs is appropriate and Ms Haugh ought also to be able to recover the filing fee of \$70. I award Ms Haugh the sum of \$820 as a contribution to her costs being \$750 in costs incurred with her counsel and the balance being recovery of the filing fee.

Summary

[10] I have made the following decisions:

- (a) WCL is to pay Ms Haugh the sum of \$2,000 within 14 days.
- (b) WCL will pay Ms Haugh a penalty of \$500 within 14 days.
- (c) WCL will pay Ms Haugh interest of \$134 on the sums outstanding.
- (d) WCL will pay Ms Haugh costs in the sum of \$820.

James Crichton
Member of Employment Relations Authority