

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Jonathan Denis Henning, Labour Inspector (Applicant)
AND Ian Butler (Respondent)
REPRESENTATIVES Jon Henning, In person
No appearance for respondent
MEMBER OF AUTHORITY James Crichton
INVESTIGATION MEETING On the papers
DATE OF DETERMINATION 20 February 2006

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant Labour Inspector (Mr Henning) alleges that the respondent (Mr Butler) has failed to comply with a demand notice served on him pursuant to section 224 of the Employment Relations Act 2000.

[2] The Authority is asked to make a compliance order under section 137 of the Act to enforce the terms of the demand notice.

[3] The demand notice was served on Mr Butler on 30 August 2005 and no objection had been lodged with the Authority within the requisite time in terms of the right so to do under section 225 of the Act.

[4] When the application from Mr Henning came before the Authority, I instructed the parties to make themselves available by way of telephone conference in the hope of encouraging Mr Butler to meet his obligations in a voluntary way. Despite the senior support officer writing to Mr Butler in the clearest terms as to the arrangements made for the telephone conference, Mr Butler neither contacted the Authority to alter the arrangement nor made himself available to participate in the telephone conference.

[5] Where, as in this case, no objection to the demand notice is lodged with the Authority, then, in terms of section 225 (4) of the Act, the demand notice imposes a legal requirement on the employer to comply with it and is *prima facie* evidence that the money amount specified in the demand notice is owed by the employer to the employee.

Determination

[6] I am satisfied that the demand notice was properly served on Mr Butler on 30 August 2005 and that Mr Butler had the appropriate information available to him in order to decide whether or

not to lodge an objection to that demand notice, and that the time for that objection to be lodged has now passed. Mr Butler did not in fact lodge an objection to the demand notice within time and the sum specified in the demand notice of \$668.91 gross has not been paid.

[7] As the employer has not exercised his right to object in this particular matter, nor has he met his obligations by paying the sum referred to in the demand notice, I direct that Mr Butler comply with the demand notice dated 30 August 2005 by paying to the Labour Inspectorate, P O Box 5510, Dunedin, for the attention of Mr Henning, the sum of \$668.91 gross. That payment is to be made within 14 days of the date of this determination and Mr Henning is directed to ensure that such payment is made available directly and without deduction to the employee whose entitlement this payment is.

Costs

[8] Costs are to lie where they fall.

James Crichton
Member of Employment Relations Authority