

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 146/07
5061726

BETWEEN

JONATHAN DENIS
HENNING
LABOUR INSPECTOR
Applicant

AND

TWO RIVERS LIMITED
Respondent

Member of Authority: Helen Doyle

Representatives: Jonathan Henning
No appearance for respondent

Investigation Meeting: 27 November 2007 at Dunedin

Determination: 29 November 2007

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant, Jonathan Henning, Labour Inspector, served on the respondent company, Two Rivers Limited, at its registered office, a demand notice under s.224 of the Employment Relations Act 2000. The demand notice was for payment of the amount of \$2,740.20 gross being wages and holiday pay payable to a former employee of Two Rivers Limited, John Hesson, under the Minimum Wage Act 1983 and the Holidays Act 2003.

[2] No objection was lodged to the demand notice but payment was not made in accordance with the demand notice. Mr Henning now asks the Authority to make a compliance order under s.137 of the Employment Relations Act 2000 to enforce the payment of \$2,740.20 as set out in the demand notice.

[3] Following the lodging and service of an application to the Employment Relations Authority on Two Rivers Limited, Mr Henning received a letter from the

director of Two Rivers Limited, Redford Easton, dated 3 May 2007. Mr Easton said in his letter that the company was prepared to pay the amount although made it clear it was not happy doing so. Mr Easton referred Mr Henning, in the letter, to a firm of lawyers that he said were holding funds related to Two Rivers Limited. Mr Henning said in his evidence that he had made contact with the lawyers, but nothing had come from that in terms of payment of the amount in the demand notice.

[4] Two Rivers Limited did not lodge a statement in reply.

[5] Mr Easton was contacted by a support officer at the Employment Relations Authority and asked to attend a telephone conference with the Authority which was held on 4 September 2007. Although Mr Easton had agreed to the time for the telephone conference he could not be contacted at the agreed time. The Authority duly set the matter down for an investigation meeting.

[6] I am satisfied that Two Rivers Limited was served at its registered office, which is the same address as its address for service, with a copy of the notice of investigation meeting and notice of directions on 6 September 2007.

[7] From that time, there has been no other participation or response in any form from the respondent company and there was no appearance at the investigation meeting.

[8] In the circumstances I proceeded to hear from Mr Henning.

Determination

[9] In the absence of any objection to the demand notice, it is prima facie evidence before the Authority that Two Rivers Limited owes John Hesson the sum of \$2,740.20 gross being wages and holiday pay under the Minimum Wage Act 1983 and the Holidays Act 2003.

[10] Mr Henning confirmed the amount set out in the demand notice has not been paid and remains outstanding.

[11] It is appropriate to make an order that Two Rivers Limited comply with the demand notice.

[12] I order Two Rivers Limited to pay to the Department of Labour the sum of \$2,740.20 gross as set out in the demand notice which was served on Two Rivers Limited on 5 March 2007.

[13] The payment is to be made in full by 11 December 2007.

[14] I also order Two Rivers Limited to pay to the Department of Labour the sum of \$70 being reimbursement of the filing fee.

H Doyle
Member of the Employment Relations Authority