



[5] Before he confirmed his consent, the Authority explained the consequences of any failure by Mr Keeley to comply with an order made under s 137; he may find himself in serious trouble in that event if further orders are sought by Ms Hooten from the Employment Court under s 139 of the Act. As I explained, he will face the possibility of being fined up to \$40,000, and/or having his property taken and sold to pay the amount owed to Ms Hooten and/or even be imprisoned for up to three months.

[6] A compliance order under s 137 may be made subject to such terms and conditions as the Authority thinks fit. In this case it is necessary to vary the time or further time allowed to Mr Keeley for making the payments agreed to previously by him.

### **Compliance order**

[7] The Authority therefore orders Mr Keeley to immediately comply with the Employment Cessation Agreement signed by him on 7 November 2008 and also signed by a mediator under s 49 of the Act. In particular he is to pay Ms Hooten a total of \$7,000 without deduction under s 123(1)(c)(i) of the Act, in the following instalments:

- \$1,000 on or before 7 February 2009;
- \$1,000 on or before 28 February 2009;
- \$1,000 on or before 28 March 2009;
- \$1,000 on or before 28 April 2009;
- \$1,000 on or before 28 May 2009;
- \$1,000 on or before 28 June 2009;
- \$1,000 on or before 28 July 2009.

[8] By his own admission Mr Keeley has breached the terms of settlement and he is therefore liable under s 149(4) of the Act to a penalty imposed by the Authority. This may be up to \$5,000. The breach may be viewed as a single but continuing one, rather than a series of separate breaches after the 28th of each month when payment was not made.

[9] The Authority will adjourn the application for penalties without making any final determination, to enable the compliance order now made to be complied with during that adjournment period.

[10] Ms Hooten may return to the Authority and ask for penalties in the event of there being any further failure to observe the terms of settlement or any breach of this compliance order.

[11] As indicated to Mr Keeley, Ms Hooten is entitled to recover some of the cost she has had to incur in seeking this compliance order. That would not have been necessary if the agreed terms of settlement had been observed by Mr Keeley, although his ready admission and explanation for the situation are to be acknowledged.

[12] The costs have fortunately been kept very low. Mr Keeley is ordered to reimburse Ms Hooten \$200 as a contribution to the advocacy costs of Ms White, and in addition he is to reimburse her \$70 for the fee paid by her to lodge this application.

A Dumbleton  
**Member of the Employment Relations Authority**