

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2023] NZERA 353
3114372

BETWEEN AAINA JINDAL
Applicant

AND RKM SMITH ENTERPRISES
LIMITED
Respondent

Member of Authority: David G Beck

Representatives: Paul Mathews, advocate for the Applicant
Kishorkumar Patel for the Respondent,

Investigation Meeting: On the papers

Submissions Received: 5 April 2023 from the Applicant
8 June 2023 from the Respondent

Date of Determination: 4 July 2023

**DETERMINATION OF THE AUTHORITY
ON APPLICATION TO RE-OPEN**

Employment Relationship Problem

[1] Aaina Jindal successfully applied to the Authority for an order pursuant to section 137(1)(a)(ii) Employment Relations Act 2000 (“the Act”) requiring RKM Smith Enterprises to comply with the terms of a settlement agreement made pursuant to s 149 of the Act on 22 June 2020 to issue a certificate of service to Ms Jindal. Orders were made for a penalty for the breach in the amount of \$1,000, of which \$500 was ordered by the Authority to be paid by

RKM Smith Enterprises Limited to Ms Jindal, costs of \$1,125, and reimbursement of the filing fee of \$71.56.¹

[2] Mr Mathews says that the above amounts have to date not been paid in full and the certificate of service was not provided. To enforce the determination Ms Jindal applied to the Employment Court seeking a sanction under s 140 of the Act but was directed back to the Authority for consideration of an omission in the Authority's determination to specify under s 137(3) of the Act the timeframe in which the compliance indicating the certificate of service would be provided.

[3] To correct the above anomaly Ms Jindal has applied for a re-opening of the Authority's investigation.

The Authority Investigation

[4] It was agreed the matter be determined by written submissions.

[5] Kishorkumar Patel, a director of RKM Enterprises, was provided with the applicant's application to re-open but has not provided a response nor has Mr Patel explained failing to provide a record of service to Ms Jindal

[6] In all the circumstances I am satisfied I should re-open the investigation for the limited purpose of specifying an order pursuant to s 137(3) of the Act that compliance with the orders set out in [2021] NZERA 81 be complied with within 14 days of the issuing of this determination.

Determination

[7] To recap, I order that RKM Smith Enterprises limited must provide Aaina Jindal with a written record of service within 14 days of this determination being issued on company

¹ *Aaina Jindal v RKM Enterprises Limited* [2021] NZERA 81.

letterhead and that such is to specify: the period of Ms Jindal's employment, the position she held and a general description of the duties she undertook.

Costs

[8] Costs are at the discretion of the Authority and here Aaina Jindal was successful in her action to have this matter reopened. I consider that she should recover a costs contribution of \$300 to account for the preparation of her application and her Authority application fee of \$71.55 both sums to be paid by RKM Smith Enterprises Limited to Ms Jindal

David Beck
Member of the Employment Relations Authority