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Jones v Palmco Garden Limited (Auckland) [2017] NZERA 71; [2017] NZERA Auckland 71 (15 March 2017)

Last Updated: 29 March 2017

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2017] NZERA Auckland 71
3002271

BETWEEN ROZALIND JONES Applicant

AND PALMCO GARDEN LIMITED Respondent

Member of Authority: Eleanor Robinson

Representatives: Belinda Robinson, Advocate for Applicant

Mike Wright, Representative for Respondent

Investigation Meeting: On the papers

Date of Determination: 15 March 2017

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The Applicant, Ms Rozalind Jones, seeks an order for compliance in accordance with

Determination [2015] NZERA Auckland 2061

[2] In that Determination the Respondent, Palmco Garden Limited (Palmco), was ordered to pay Ms Jones, within 28 days of the date of determination, the sum of \$14,655.00 as lost remuneration pursuant to [s 123\(1\)\(b\)](#) of the [Employment Relations Act 2000](#) (the Act), and the sum of \$6,000.00 as compensation pursuant to [s 123](#) (1)(c) of the Act, a total sum of \$20,655.00.

[3] Ms Jones further seeks an order for compliance with Determination [2015] NZERA Auckland 2552 . In that Determination Palmco was ordered to pay Ms Jones the sum of

\$750.00 costs plus \$71.56 in respect of the filing fee.

[4] Ms Jones claims that Palmco has not complied with either of the Determinations.

[5] Mr Wright claims that Palmco is not in a position to make payment in full and has offered to make payment by way of instalments. This is not acceptable to Ms Jones.

¹ *Rozalind Jones v Palmco Garden Limited* [2015] NZERA Auckland 206

² *Rozalind Jones v Palmco Garden Limited* [2015] NZERA Auckland 255

Determination

Compliance Order

[6] The power of the Authority to order compliance is set out in [s.137](#) of the [Employment Relations Act 2000](#) (the Act), which states in [s.137\(i\)\(b\)](#) that the Authority has the power to order compliance with:

Any order, determination, direction or requirement made or given under this Act by the Authority or a member or officer of the Authority

[7] Compliance with Determination [2015] NZERA Auckland 206 and Determination

[2015] NZERA Auckland 255 is ordered against Palmco.

Interest

[8] Ms Jones has applied for interest on the outstanding sums as set out in the Determinations.

[9] The Authority has the power to award interest pursuant to clause 11 of the Second Schedule of the Act at the rate prescribed by the [Judicature Act 1908](#), which is currently 5% per annum³.

[10] I consider that it is appropriate that Palmco is ordered to pay interest on the outstanding sums owed to Ms Jones.

[11] Palmco is also ordered to pay the filing fee associated with this application.

[12] In order to effect compliance with Determination [2015] NZERA Auckland 206 and Determination NZERA Auckland 255, I therefore order Palmco to pay Ms Jones, no later than 27 March 2017, the outstanding amounts as determined:

- i. **the sum of \$14,655.00 as ordered in Determination [2015] NZERA Auckland 206;**
 - ii. **the sum of \$6,000.00 as ordered in Determination [2015] NZERA Auckland 206;**
 - iii. **the sum of \$750.00 as ordered in Determination [2015] NZERA Auckland 255;**
 - iv. **interest on those sum at the rate prescribed by the [Judicature Act 1908](#), which is currently 5% per annum⁴;**
- v) **the sum of \$71.56 in respect of the filing fee as ordered in Determination [2015] NZERA Auckland 255; and**
- vi. **the sum of \$71.56 in respect of filing fee for this application for compliance.**

Eleanor Robinson

Member of the Employment Relations Authority

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