IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND

BETWEEN		RENA KEIGHTLEY (LABOUR INSPECTOR) Applicant
AND		BLISLAND DAIRIES LIMITED Respondent

Member of Authority:	K J Anderson
Representatives:	R Keightley, Advocate for Applicant J Pye, Advocate for Respondent
Investigation Meeting:	On the papers
Determination:	17 May 2011

DETERMINATION OF THE AUTHORITY

Application for Compliance Order

[1]   On 16th June 2010 the Authority issued a determination containing the following orders in regard to payments to be made to the Labour Inspector, the applicant in these proceedings:

(a)   Two weeks annual holiday pay; being a net sum of $1,386.44.

(b)   Payment in lieu of working on Labour Day 2008, plus a half time component for working on that day; being a total net sum of $219.28.

(c)   The half time component for working on Waitangi Day 2009; being the net sum of $80.68.

The total net sum that Blisland Dairies Limited was ordered to pay to the Labour Inspector, for the use of Mr Shane Milham, is $1,686.40; but subsequently, the sum of $200.00 was to be deducted from this for the value of four chairs Mr Milham took from the property. There are also orders for the payment of a penalty (to the Crown) of $200.00 for the failure to compile and produce wage and time records as required

under section 232 of the Employment Relations Act 2000 (the Act). Finally, there is an order for the application fee paid to the Authority of $70.00. The monies due under the orders made have not been paid and the Labour Inspector has made an application for a compliance order pursuant to section 137 of the Employment Relations Act 2000 (the Act).

Background to the application

[2]   On 1st July 2010, the Labour Inspector wrote to Mr Pye, Director, Blisland Dairies Limited (Blisland) requesting payment of $1,486.40 for the use of Mr Milham and a further $270.00 to be paid to the Department of Labour; the sums to be paid by 14th July 2010.

[3]   On 13 July 2010, the Labour Inspector spoke to Mr Pye and he advised that Blisland was not going to pay the monies ordered. The Labour Inspector informed Mr Pye that she intended to take the necessary steps to have the orders of the Authority enforced.

[4]   Further letters requesting payment, from the Labour Inspector and a Department of Labour solicitor (15th July, 7th October and 5th November 2010), were set to Blisland; without response, or payment.

[5]   I am satisfied that Blisland has received a copy of the current application for compliance; to which there has been no response.

Compliance Order

[6]   I am satisfied that Blisland has not complied with the orders of the Authority in the determination dated 16th June 2010 and that no good reason has been given for the failure to comply.

[7]   Pursuant to section 137 of the Employment Relations Act 2000, Blisland Dairies Limited is ordered to pay to the Department of Labour:

(a)   The net sum of $1,486.40 as holiday pay arrears for the use of Mr Shane Milham.

(b)   The penalty sum of $200.00.

(c)   The costs sum of $70.00

The above sums must be paid not later than 31st May 2011.

[8]   I am obliged to draw to the attention of Mr Pye, as a director of Blisland Dairies, that should the company default on the above compliance order, upon application to the Employment Court by the Labour Inspector, pursuant to section 138(6) of the Act, and following a hearing, penalties may be imposed by the Employment Court. These may include a fine of up to $40,000, the seizure and sale of property, or imprisonment for up to three months.

Costs: Blisland Dairies Limited is ordered to pay to the Labour Inspector the sum of $71.56 being the filing fee paid to the Employment Relations Authority for this application.

K J Anderson
Member of the Employment Relations Authority