

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

[2014] NZERA Christchurch 158  
5516303

BETWEEN                      INGRID KIM      (LABOUR  
   INSPECTOR)  
   Applicant

A N D                              THREE DOVES LIMITED  
   Respondent

Member of Authority:      David Appleton

Representatives:              Ingrid Kim in person  
   David Ott, advocate for the respondent

Investigation Meeting:      Resolution reached by consent

Date of Determination:      10 October 2014

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**DETERMINATION OF THE AUTHORITY**

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- A.      The respondent is to pay penalties totalling \$3,500.**
- B.      The respondent is to reimburse the Labour Inspector the cost of the Authority's lodgement fee of \$71.56.**

**Employment relationship problem**

[1]      The Labour Inspector lodged an application with the Authority for a compliance order and for the imposition of penalties against the respondent in respect of its failure to comply with a Notice issued to the respondent pursuant to her power under s 229(1)(d) of the Employment Relations Act 2000 (the Act) which required the respondent to supply the Labour Inspector with copies of employment agreements for each employee and former employee within a stipulated timeframe.

[2]      During a telephone case management conference with the Authority held on Thursday 9 October 2014, Ms Kim agreed that the requirements of her s 229 Notice

had eventually been complied with by the respondent, albeit after the time stipulated by her in the Notice. Therefore, she no longer sought compliance orders but still sought the imposition of a penalty.

[3] During the telephone case management conference the respondent admitted that it had failed to issue employment agreements to two former employees and had failed to retain a copy of an employment agreement which it had issued to a third. Consequently, Ms Kim sought to amend the statement of problem to include the seeking of penalties against the respondent in respect of these three failures, which would constitute two breaches of s 63A(2) of the Act and a breach of s 64(2) of the Act. I consented to grant leave to amend, given that Ms Kim had only just discovered this breach of s 63A, and allowed the respondent time to lodge an amended statement in reply.

[4] However, at the conclusion of the telephone case management conference, Mr Mehrtens, the director of the respondent company, expressed a wish to agree with Ms Kim what penalties she would assess were reasonable and to seek to agree a resolution to the employment relationship problem before the Authority. Shortly thereafter, Ms Kim communicated to the Authority that the parties had agreed that the respondent should pay penalties in the total sum of \$3,500 in respect of the breaches of her s229 Notice and the breaches of s 63A and s 64(2).

[5] As the parties have not agreed how costs should be dealt with, and as no formal consent agreement has been entered into by the parties, I shall not issue this determination as a consent determination. However, as the respondent has admitted four breaches of the Act, each of which carries the right to impose penalties (under ss229(3), 63A(3) and 64(4) of the Act respectively) I am content that it is appropriate to impose penalties for these admitted breaches.

[6] Given the relatively minor nature of each breach, and the willingness of the respondent to admit the breaches and to pay penalties, I am also content that the sum of \$3,500 is an appropriate total global penalty to impose.

### **Order**

[7] I order that the respondent pay penalties totalling \$3,500 in respect of the breaches of the Act outlined in this determination. Pursuant to s136 of the Act, the

respondent is to pay the penalty to the Authority, which will then pay the sum into a Crown Bank Account.

### **Costs**

[8] It is assumed that the Labour Inspector has incurred no legal costs save for the Authority's lodgement fee. I therefore **further order** the respondent to reimburse to the Labour Inspectorate directly the sum of \$71.56.

David Appleton  
Member of the Employment Relations Authority