

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN	David Maginn (applicant)
AND	European Profile Limited (respondent)
REPRESENTATIVES	Alan Cressey for the applicant Barry & Judy Burt for the respondent
MEMBER OF THE AUTHORITY	Denis Asher
INVESTIGATION	Wellington, 14 September 2006
DATE OF DETERMINATION	14 September 2006

DETERMINATION OF AUTHORITY

Employment Relationship Problem

1. Mr Maginn says the Company failed to comply with s. 64 (2) of the Act and unjustifiably constructively dismissed him – statement of problem filed on 21 March 2006. He sought a penalty against the respondent, reimbursement of 7-weeks' wages totalling \$3,080, compensation of \$15,000 for humiliation, etc and costs.
2. The Company accepted it had not provided Mr Maginn with a written employment agreement but had since taken steps to ensure all staff were provided with written

agreements, but otherwise denied the applicant's allegations – statement in reply received on 6 April.

3. The parties underwent mediation.
4. During a telephone conference convened the parties agreed to a one-day investigation in Wellington on 14 September. They usefully provided witness statements in advance of the investigation.

Settlement

5. During today's investigation the parties agreed to resume mediation, as a result of which they later confirmed that settlement had been reached. Mr Maginn and his counsel, Mr Allan Cressey, confirmed that the matter was withdrawn.

Determination

6. Because the matter has been settled by the parties and withdrawn no determination is required.