

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2016] NZERA Auckland 177  
5622884

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| BETWEEN | JUNIOR MEHAU<br>Applicant                      |
| AND     | WHEEL REPAIR SERVICES<br>LIMITED<br>Respondent |

|                        |   |
|------------------------|---|
| Member of Authority:   | Vicki Campbell                                      |
| Representatives:       | Applicant in person<br>No appearance for Respondent |
| Investigation Meeting: | On the papers before the Authority                  |
| Determination:         | 8 June 2016   |

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**DETERMINATION OF THE AUTHORITY**

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- A. Wheel Repair Services Limited is ordered to comply with clause 3 of the Record of Settlement dated 11 February 2016 and pay the sum of \$1,025 within seven (7) days of the date of this determination.**
- B. Wheel Repair Services Limited is ordered to reimburse Mr Mehau the filing fee of \$71.56 within seven (7) days of the date of this determination.**

**Employment relationship problem**

[1] Mr Junior Mehau seeks an order for compliance in relation to payments due under a Record of Settlement (the Settlement) made in mediation with Wheel Repair Services Limited (WRSL).

[2] WRSL has failed to file a statement in reply and has not applied for leave to respond or reply to the matter. The parties were notified on 13 May 2016 that unless either party objected I would determine this matter on the papers before the Authority. Mr Mehau has asked that the matter be determined on the papers.

[3] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has not recorded all the evidence received from Mr Mehau but has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter, and specified orders made as a result.

### **The issues**

[4] The issue requiring determination is whether a compliance order should be made.

### **Application for compliance**

[5] On 11 February 2016 Mr Mehau and WRSL reached an agreed resolution to all matters between them which was recorded in the Settlement and signed by a Ministry of Business Innovation and Employment mediator pursuant to section 149 of the Act.

[6] The Settlement required WRSL to pay to Mr Mehau specified sums by specified dates. The parties agreed that if one debt payment was missed on the due date the total debt remaining unpaid would become a debt due and payable immediately. There is no dispute that WRSL has not meet the specified dates set out in the Settlement. This means that clause 3 becomes operative and the outstanding debt of \$1,025 is payable immediately.

[7] The parties have entered into a final binding and enforceable settlement under section 149 of the Act. Mr Mehau has applied under section 137(2) of the Act for the Authority to order WRSL to comply with all of its obligations under the Settlement.

[8] I am satisfied that WRSL entered into the Settlement voluntarily in the full knowledge of its obligations to pay the specified sums on the specified dates or face the consequences of the outstanding balance becoming a debt payable immediately. Despite knowing of its responsibilities WRSL has failed to meet the specified payment dates.

[9] I consider this an appropriate matter in which to exercise the Authority's discretion to order compliance and the application is granted.

**Further non-compliance**

[10] The Authority's orders may be the subject of a further application for compliance in the Employment Court which is empowered to impose penalties for continuing non-compliance which include imprisonment, fines and the sequestration of property.

**Costs**

[11] Mr Mehau is entitled to be reimbursed his filing fee on this application. Mr Mehau represented himself and as there was no need to convene an investigation meeting no further costs award will be made.

[12] Wheel Repair Services Limited is ordered to reimburse Mr Mehau his filing fee of \$71.56 within seven (7) days of the date of this determination.

Vicki Campbell

Member of the Employment Relations Authority