

[5] While the settlement agreement is clear about the requirement to pay there is no reference to when the money is to be paid. A second conference call was set up between the parties to discuss the lack of a specified payment date and to ascertain whether any agreements were reached as to when payment would occur.

[6] As a result of that telephone conference call an email exchange relating to the non-payment of the settlement amount was produced. The email exchange indicates the payment was due to be paid at the conclusion of the mediation.

[7] In an email from Mr Kiser to the mediation service dated 28 April 2008 Mr Kiser acknowledges that he had not yet paid the sum and states:

I'll take action today and the money should be in her account probably not today, but the certainly tomorrow.

[8] I have concluded that the \$300 should have been paid at the latest by 29 April 2008. The amount remains outstanding and Mr Kiser is therefore in breach of the settlement agreement.

[9] I am satisfied a compliance order would be appropriate in the circumstances. Mr Kiser has been provided with an updated new bank account number into which the money is to be paid.

[10] Ms Mueller seeks interest on the amount owed to her. Exercising the discretion to award interest under clause 11 of Schedule 2 of the Act, I think it fit to order Mr Kiser to pay to Ms Mueller interest at the rate of 10 per cent on the \$300.00.

[11] Interest is to be calculated from 30 April 2008 until the date the sum is paid to Ms Mueller.

Mr Mike Kiser is ordered to comply with clause 2 of the Record of Settlement dated 27 March 2008 by paying to Ms Mueller an amount of \$300 plus interest within 14 days of the date of this determination.

[12] Ms Mueller has had to incur expenses, which would not have been necessary had Mr Kiser honoured the mediated settlement agreement to which he had agreed.

Mr Kiser is ordered to reimburse Ms Mueller the \$70 filing fee within 14 days of the date of this determination.

Vicki Campbell
Member of Employment Relations Authority