

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2018] NZERA Christchurch 118
3031581

BETWEEN NINA NUMAN
Applicant

AND THE ROCKPOOL LIMITED
Respondent

Member of Authority: Helen Doyle

Representatives: Roland Samuels, Advocate for Applicant
James Hobcraft, Advocate for Respondent

Investigation Meeting: 20 August 2018

Determination: 23 August 2018

DETERMINATION OF THE EMPLOYMENT RELATIONS AUTHORITY

- A The Rockpool Limited is ordered to comply with two determinations of the Authority in which awards were made to Nina Numan for compensation, lost wages and costs in the total sum of \$11,818.24.**
- B The Rockpool Limited is ordered to comply with both determinations by making a payment into the provided bank account number of \$1000 on 24 August 2018 and further payments of \$500 every Friday until the full amount of \$11,818.24 is paid in accordance with the schedule set out in the determination.**
- C In the event there is a default in payment of any instalment then the full amount will become due and payable.**
- D The Rockpool Limited is ordered to pay costs on this application in the sum of \$754.40 (GST inclusive) and reimbursement of the filing fee of \$71.56.**

- E Costs on this application and reimbursement of the filing fee is to be paid by The Rockpool Limited by way of two further instalments to follow on from the instalment schedule. There is to be a payment of \$500 on 1 February 2019 and a second payment of \$325.96 on 8 February 2019.**
- F If there is a default in terms of the compliance order then the costs on this application become due and payable immediately.**

Employment relationship problem

[1] Nina Numan applies for an order for compliance with two determinations of the Authority under s 137 of the Employment Relations Act 2000 (the Act) and seeks costs on the compliance application.

[2] Ms Numan says that The Rockpool Limited (The Rockpool) has not paid the amounts awarded to her in the substantive determination of the Authority dated 25 May 2018¹ and the costs determination dated 27 June 2018.²

[3] Mr Samuels provided copies of several emails that he had sent to The Rockpool seeking payment of the amounts awarded that have not been responded to.

[4] Mr Hobcraft does not dispute that there has not been payment of the amounts awarded to Ms Numan in the Authority determinations. He says The Rockpool has financial difficulties and would be unable to meet an order for payment of the full amount and the only way payment could be made was by instalment.

[5] Under s 138 (4A) of the Act the Authority may, if a compliance order relates to payment to an employee of a sum of money, order payments by instalment but only if the financial position of the employer requires it.

[6] After a short investigation meeting and subsequent provision of some financial information Mr Samuels advised the Authority that Ms Numan was agreeable to an order for payment by instalment with an initial payment of \$1000 and subsequent weekly payments of

¹ *Nina Numan v The Rockpool Limited* [2018] NZERA 74

² *Nina Numan v The Rockpool Limited* [2018] NZERA 95

\$500 until the full amount is paid. I accept that the financial position of The Rockpool is such that payment by instalment is required.

[7] The amounts awarded in the substantive determination are payment of compensation in the sum of \$6,400 and reimbursement of lost wages in the sum of \$2,596.68 gross. Costs were awarded in the sum of \$2,750 together with disbursements of \$71.56.

[8] There is therefore a total amount owing to Ms Numan of \$11,818.24 from both determinations.

[9] I consider that it is appropriate for a compliance order to be made. Without such an order I could not be satisfied the instalments would be paid.

[10] The Rockpool Limited is ordered to comply with both determinations by making a payment of \$1000 on 24 August 2018 and further payments of \$500 every Friday until the full amount of \$11,818.24 is paid.

[11] In the event there is a default in payment of any instalment then the full amount owing will become due and payable.

[12] The payments are to be made into the bank account number supplied by Mr Samuels which the Authority will provide again to Mr Hobcraft with this determination.

[13] The payment schedule is as follows:

Date	Amount
24 August 2018	\$1,000
31 August 2018	\$500
7 September 2018	\$500
14 September 2018	\$500
21 September 2018	\$500
28 September 2018	\$500
5 October 2018	\$500
12 October 2018	\$500

19 October 2018	\$500
26 October 2018	\$500
2 November 2018	\$500
9 November 2018	\$500
16 November 2018	\$500
23 November 2018	\$500
30 November 2018	\$500
7 December 2018	\$500
14 December 2018	\$500
21 December 2018	\$500
28 December 2018	\$500
4 January 2019	\$500
11 January 2019	\$500
18 January 2019	\$500
25 January 2019	\$318.24

Costs

[14] Mr Samuels has applied for costs on this application. He has provided an invoice in the sum of \$656 plus GST which is \$754.40 and is also seeking reimbursement of the filing fee of \$71.56. Mr Hobcraft did not oppose an order for costs. I find that it is appropriate that such an order be made as claimed. Ms Numan has had to incur costs for payments of awards made to her which should not have been necessary.

[15] There was initially a claim for a debt collectors fee however as I explained to Mr Samuels these costs were not for matters associated with the application for compliance or otherwise within the jurisdiction of the Authority.

[16] Mr Samuels has also asked that the costs awarded form part of the instalment payments. That is sensible but there cannot be an order for compliance for prospective

breaches only a past breach. There has not been a breach yet in respect of the award of costs for the compliance order. That means the two matters need to be dealt with separately.

[17] The Rockpool Limited is ordered to pay costs on this application in the sum of \$754.40 (GST inclusive) and reimbursement of the filing fee of \$71.56.

[18] The costs on this application and reimbursement of the filing fee are to be paid by The Rockpool by way of two further instalments to follow on from the instalment schedule the Rockpool has been ordered to comply with. There is to be a payment of \$500 on 1 February 2019 and a second payment of \$325.96 on 8 February 2019.

[19] If there is a default in terms of the compliance order then the costs on this application become due and payable immediately.

Helen Doyle
Member of the Employment Relations Authority