

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2025] NZERA 721
3389484

BETWEEN KIRSTEN PHILIP
 Applicant

AND VJ MAC LIMITED
 Respondent

Member of Authority: Antoinette Baker

Representatives: Applicant in person
 Vicki McMillan for the Respondent

Investigation: On the papers

Final information received: 19 September 2025

Date: 10 November 2025

DIRECTIONS OF THE AUTHORITY

[1] The applicant, Ms Philip seeks an order that her former employer, the respondent (VJM) comply with a final payment to her of \$640.84 which remains unpaid as a second payment due on 18 June 2025 under a Record of Settlement entered pursuant to s 149 of the Act (ROS). Ms Philip also claims a penalty under s 149(4) of the Act for noncompliance with the ROS and asks for her filing fee.¹

¹ Ms Philip's claim was clarified as this during a phone conference call held with her and Ms McMillan for the respondent. This is reflected in Directions of the Authority dated 19 September 2025.

[2] VJM is a registered company². Its sole director and shareholder is Vicki McMillan who has provided a Statement in Reply. Ms McMillan states in that document that the business has closed, that she agrees the money is owed but that she herself has no money to pay.

[3] The statement in reply includes in handwriting that ‘the business closed Kings Birthday weekend, and our lease terminated’ and ‘no money to pay – which I agree I owe \$640.84’. There is reference to illness of what may be taken to be the husband of Ms McMillan and her being his caregiver. I have nothing to show me that Ms McMillan’s husband has any involvement in this matter. He is not registered as having a status with the respondent company as a director or shareholder. Ms Philip sets out in her statement of problem what she considers have been a series of various excuses by Ms McMillan not to pay.

[4] I held a phone conference call on 19 September 2025 and issued directions that day setting out the issues and the timetable for Ms Philip and VJM to provide further submissions and any relevant affidavits. I indicated that once that further material was provided, unless anything further required me to ask questions I would deal with this matter ‘on the papers’. Nothing further was received from either party according to the directed timetable and I reserved my determination ‘on the papers.’

[5] Given there is no dispute that VJM has not paid the money due for the second payment under the ROS, and it has not taken the opportunity to provide further reliable financial information for me to consider about any reason for this, I find it appropriate to order compliance. I note that VJM remains registered despite Ms McMillan’s representation it may have sold or ceased its business interest trading as ‘Wairakei General Store and Takeaways’.

[6] While Ms Philip sought a penalty under s 140(4) of the Act for non-compliance with the ROS, I decline to do so. I explained on the above referred phone conference call and in the subsequent directions that I must consider the matters set out under s133A of the Act before exercising discretion to order a penalty. Nothing further has been provided about this. Accordingly, I am not satisfied I have sufficient information to consider whether to order a penalty.

² <https://app.companiesoffice.govt.nz/companies/app/ui/pages/companies/9318479>

[7] While I have not ordered a penalty, the imposition of a compliance order is a serious matter. Should a company fail to comply with a compliance order the applicant will be entitled to pursue the breach in the Employment Court or the District Court enforcement processes. The Employment Court has powers to impose a fine against a company if there is non-compliance with its orders which include for a company a fine not exceeding \$40,000, and or an order for property to be sequestered. In the event an individual does not comply with its compliance orders, the Court has the ability to impose as a maximum, a sentence of imprisonment not exceeding 3 months³.

[8] Ms Philip remained unrepresented, but I have awarded her the reimbursement of the Authority filing fee. I am satisfied based on what I do have before me that she ought not to have had to bring this application.

Orders

[9] The following orders are made:

- a. Within 14 days from the date of this determination, VJ Mac Limited is to comply with paragraph 1 of the Record of Settlement dated 27 May 2025 between it and Kristen Philip and pay Kristen Philip \$640.84 into her bank account:
- b. Within 14 days from the date of this determination, VJ Mac Limited is to pay Kristen Philip \$71.55 for the Authority Filing fee she has paid on this application into her bank account.

Antoinette Baker
Member of the Employment Relations Authority

³ Sections 139 and 140(6) Employment Relations Act 2000.