

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2013] NZERA Auckland 454  
5430793

BETWEEN                      DYLAN ANDREW JAMES  
   PRICE-BRENNAN  
   Applicant

A N D                              JIREH AUTO TYRES  
   LIMITED  
   Respondent

Member of Authority:      Rachel Larmer

Representatives:            Keshila Fayen, Advocate for Applicant  
   No appearance by Respondent

Investigation Meeting:    04 October 2013 at Auckland

Date of Determination:    04 October 2013

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**DETERMINATION OF THE AUTHORITY**

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- A.    Jireh Auto Tyres Limited (Jireh Auto) is ordered within 28 days of the date of this determination to comply with the Authority's determinations of 13 June and 13 August 2013<sup>1</sup> by paying Mr Price-Brennan \$15,057.52.**
- B.    Jireh Auto is ordered to pay Mr Price-Brennan 5% interest on \$15,057.52 from 20 August 2013 until the amount is paid in full.**
- C.    Jireh Auto is ordered to pay Mr Price-Brennan \$150 towards his costs together with \$71.56 to reimburse his filing fee.**

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<sup>1</sup> [2013] NZERA Auckland 251; [2013] NZERA Auckland 360 and [2013] NZERA Auckland 362.

## **Employment relationship problem**

[1] In a determination dated 13 June 2013 the Authority held that Jireh Auto unjustifiably dismissed Mr Price-Brennan.<sup>2</sup> Jireh Auto was ordered to pay Mr Price-Brennan remedies of \$8,874. In a second determination dated 13 August 2013 Jireh Auto was ordered to pay Mr Price-Brennan \$161.96 unpaid holiday pay.<sup>3</sup> In a third determination dated 13 August 2013 Jireh Auto was ordered to pay Mr Price-Brennan \$6,021.56.<sup>4</sup> Jireh Auto has been ordered by the Authority to pay Mr Price-Brennan a total of \$15,057.52.

[2] Mr Price-Brennan has demanded payment of what he has been awarded but Jireh Auto has not paid him anything. Jireh Auto has also failed to respond to Mr Price-Brennan's requests for payment of the amounts he has been awarded. Mr Price-Brennan now seeks a compliance order that Jireh Auto complies with the Authority's three determinations which awarded him a total of \$15,057.52.

## **No appearance by respondent**

[3] Mr Price-Brennan's Statement of Problem for a compliance order was served on Jireh Auto on 03 September 2013. Jireh Auto has not filed a Statement in Reply. Nor has Jireh Auto sought leave to file a Statement in Reply out of time. Although the Notice of Hearing for this investigation meeting was served on Jireh Auto on 25 September 2013 it did not attend the Authority's investigation meeting.

## **Outcome**

[4] I am satisfied that Jireh Auto has failed to comply with the Authority's determinations dated 13 June and 13 August 2013<sup>5</sup> because it has not paid Mr Price-Brennan any of the money he has been awarded.

[5] Mr Price-Brennan is entitled to be paid the amounts he has been awarded by the Authority. It is unlikely that will occur without a compliance order being imposed on Jireh Auto. I therefore order Jireh Auto to comply within 28 days of the date of this determination with the Authority's three determinations dated 13 June and 13

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<sup>2</sup> [2013] NZERA Auckland 251.

<sup>3</sup> [2013] NZERA Auckland 360.

<sup>4</sup> [2013] NZERA Auckland 362.

<sup>5</sup> Ibid 1.

August 2013<sup>6</sup> by paying Mr Price-Brennan the sum of \$15,057.52 within 28 days of the date of this determination.

### **Interest**

[6] An award of interest is discretionary. I consider it appropriate to exercise this discretion in Mr Price-Brennan's favour because he has been deprived of the use of money he has been awarded as a result of Jireh Auto's failure to pay him. Jireh Auto has obtained the financial benefit of retaining the money which it was ordered to pay Mr Price-Brennan for its own use so an award of interest will recognise that.

[7] Jireh Auto is ordered to pay Mr Price-Brennan interest under s87 of the Judicature Act 1908 at the current 90 day bill rate of 5 % (as per clause 14 of the Judicature (Prescribed Rate of Interest) Order 2011) on the \$15,057.52 he is owed from 20 August 2013 until the full amount has been paid.

### **Costs**

[8] Mr Price-Brennan has been put to expense of incurring legal costs and a filing fee to obtain compliance with the Authority's determinations in his favour. His application for compliance has succeeded so he is entitled to an award of costs in his favour. Jireh Auto is ordered to pay Mr Price-Brennan \$150 towards his legal costs together with \$71.56 to reimburse his filing fee.

**Rachel Larmer**  
**Member of the Employment Relations Authority**

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<sup>6</sup> Supra.