

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2023] NZERA 299
3214719

BETWEEN KIMBERLEY PRICE
Applicant

AND PINEVALE FARMS LIMITED
Respondent

Member of Authority: David G Beck

Representatives: Louise Smith-Moore, advocate for the Applicant
Mark Peter Hurst, for the Respondent

Investigation Meeting: 7 June 2023

Submissions Received: 7 June from the Applicant
None from the Respondent

Date of Determination: 9 June 2023

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] In a determination issued on 30 January 2023, the Authority found an established personal grievance of unjustified constructive dismissal and ordered Pinevale Farms Limited to pay Kimberley Price:

- (i) Compensation of \$20,000.00.
- (ii) Arrears of wages of \$25,000 (gross).
- (iii) Unpaid notice of \$800 (gross).
- (iv) Unpaid holiday pay of \$8,287.13 (gross).
- (v) Payment for nine public holidays in the amount of \$2,160 (gross).

(vi) Interest on the above amounts ((ii) to (v)).¹

[2] In a further cost determination of 8 March 2023, the Authority ordered that Pinevale Farms Limited pay Kimberley Price a contribution to her legal costs in the sum of \$10,000.²

[3] The above compensatory awards and costs have not been paid by Pinevale Farms Limited and Kimberley Price seeks a compliance order pursuant to section 137(1)(b) of the Employment Relations Act 2000 (“the Act”).

The Authority’s investigation

[4] Pinevale Farms Limited’s director Mark Peter Hurst did not provide a statement in reply or file a brief of evidence as directed but he did provide the Authority with some documentary evidence that showed his company was in a difficult financial situation with significant debt. However, this information was not up to date or complete.

[5] Mr Hurst appeared before the Authority unrepresented and indicated he had made efforts to resolve matters that had been rebuffed by Ms Price. Mr Hurst was unable to explain why no payments had been made other than his claimed impecuniosity. Mr Hurst suggested he was willing to discuss with his accountant if it was feasible to advance an offer to resolve matters by paying by instalments.

[6] Pursuant to s 174E of the Employment Relations Act 2000 (“the Act”), I make findings of fact and law and outline conclusions to resolve the disputed issue and make orders but I do not record all evidence.

[7] Ms Price’s advocate detailed unsuccessful attempts to negotiate with Pinevale Farms Limited and Mr Hurst and indicated a statutory demand had been filed in the High Court seeking to liquidate Pinevale Farms Limited.

[8] I also heard from Ms Price about the distress she is suffering in her claims not being resolved including financial difficulties.

¹ *Kimberley Price v Pinevale Farms Limited and Mark Hurst* [2023] NZERA 45.

² *Kimberley Price v Pinevale Farms Limited and Mark Hurst* [2023] NZERA 118.

Finding

[9] I find that Pinevale Farms Limited have not paid any of the compensatory awards awarded by the Authority or costs. The compliance order sought by Kimberley Price is appropriate and I grant it on the following terms.

Order

[10] By order of the Authority under section 137 Employment Relations Act 2000, Pinevale Farms Limited is to pay Kimberley Price:

- (a) Compensation of \$20,000.00.
- (b) Arrears of wages of \$25,000 (gross).
- (c) Unpaid notice of \$800 (gross).
- (d) Unpaid holiday pay of \$8,287.13 (gross).
- (e) Payment for nine public holidays in the amount of \$2,160 (gross).
- (f) Interest on the above amounts ((b) to (e)).
- (g) Costs of \$10,000.

[11] Pursuant to section 138 (5) Employment Relations Act 2000, the Authority does not yet specify a final determination on the timeframe for the above payments order to be obeyed. The determination of a timeframe under section 137 (3) of the Employment Relations Act 2000 is adjourned pending the applicant providing the Authority with an update on the progress of current parallel civil legal proceedings against Pinevale Farms Limited and/or whether an agreement has been reached with Pinevale Farms Limited.

Costs

[12] Costs for this application are at the discretion of the Authority and here Kimberley Price was successful in her action for a compliance order and has sought a costs contribution to prepare this application and assist with a submission. I fix that amount at \$500 to be paid by Pinevale Farms Limited to Kimberley Price. I also order Pinevale Farms Limited to pay Kimberley Price a filing fee of \$71.55.

David G Beck
Member of the Employment Relations Authority