

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Angela Spotswood (Applicant)
AND Delpac 2000 Limited (Respondent)
REPRESENTATIVES Angela Spotswood in person for Applicant
No appearance for Respondent
MEMBER OF AUTHORITY R A Monaghan
INVESTIGATION MEETING 16 February 2006
DATE OF DETERMINATION 28 February 2006

DETERMINATION OF THE AUTHORITY

[1] Angela Spotswood seeks an order for compliance with a mediated settlement reached under s 149 of the Employment Relations Act 2000.

[2] Ms Spotswood filed a statement of problem seeking the order in September 2005. At the time, the relevant settlement agreement was one dated 24 August 2005. An undated letter on behalf of Delpac 2000 Limited ("Delpac 2000") to the Authority advised it was not possible to pay the settlement sum contained in the agreement as a lump sum, but offered to make weekly payments of \$400 per week. The letter was referred to Ms Spotswood's representative, who advised the Authority on 25 October 2005 that the offer had been accepted.

[3] In January 2006 Ms Spotswood advised the Authority that only some weekly payments had been met, and she sought to proceed with her application.

[4] I have subsequently obtained a copy of a mediated settlement agreement dated 16 November 2005. The document complies with s 149 and clause 1 provides that it is an amendment to the 24 August settlement. The provision to be complied with now reads as follows:

"2. The employer will pay to the employee the amount of \$2,500 (two thousand and five hundred dollars) in terms of the provisions of s 123 (1)(c)(i) of the Employment Relations Act 2000. Due to Employers business constraint this amount will now be paid by weekly instalments of four hundred dollars starting within 7 days of the date hereof."

[5] According to Ms Spotswood, Delpac 2000 has made the following payments:

.	22 November 2005	\$400
.	2 December 2005	\$200
.	8 December 2005	\$400
.	16 December 2005	\$400

Failure of employer to attend

[6] There was no appearance by or on behalf of Delpac 2000. Notice of the investigation meeting was sent to the company's sole director and shareholder at the company's address for service and to the premises where Ms Spotswood worked. The company has shown no good cause for its failure to attend the meeting and I have proceeded in its absence under clause 12, Schedule 2 of the Employment Relations Act 2000.

Determination

[7] As at the date of this determination, Delpac 2000 was in default of the amended settlement agreement to the following extent:

.	2 December 2005	\$200
.	21 December 2005	\$400
.	28 December 2005	\$400
.	4 January 2006	\$100 (being the outstanding balance of the sum owed)

[8] The total amount in default is \$1,100.

[9] Delpac 2000 is ordered to comply with the amended settlement agreement by paying the sum of \$1,100 to Ms Spotswood forthwith.

[10] Delpac 2000 is further ordered to pay forthwith to Ms Spotswood the sum of \$70 in respect of the filing fee in the Authority.

R A Monaghan
Member, Employment Relations Authority