

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURAU ROHE**

[2024] NZERA 604
3302461

BETWEEN VILIAMI TAFUNA
Applicant
AND AWARD LIVING LIMITED
Respondent

Member of Authority: Nicola Craig
Representatives: Ruby Brooking for the applicant
No appearance for the respondent
Investigation Meeting: On the papers
Submissions Received: 23 August 2024 and 10 October 2024 from the applicant
Nothing received from the respondent
Determination: 10 October 2024

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Viliami Tafuna seeks a compliance order with a determination of the Authority of 2 May 2024 (the first determination) in which his former employer Award Living Limited (Award Living) was ordered to pay sums to him.¹

The Authority's investigation

[2] Award Living has not participated in this proceeding.

[3] A Notice of Directions of the Authority was sent to the parties proposing that this application should be decided on the papers, with the parties having the opportunity

¹ *Viliami Tafuna v Award Living Ltd* [2024] NZERA 252.

to provide any further material. A time was set for the provision of written material. No objection to the proposal was received from either party within the time provided. Mr Tafuna later confirmed that he had not received any payment under the first determination.

[4] In the preparation of a determination on the compliance application a question about the adequacy of service arose. The Authority provided another Notice of Directions of the Authority proposing that this application be decided on the papers, with the parties having the opportunity to provide any further material. A new time was set for any objection to the proposal as well as the provision of written material. No objection was received to the proposal.

[5] Again no material was received from Award Living. Mr Tafuna confirmed that none of the money under the first determination had been paid.

[6] I am satisfied that the statement of problem and the second Notice of Directions of the Authority were served on Award Living's registered office, as well as another address provided for it on behalf of Mr Tafuna and emailed to Ross Ogotau from Award Living, who was mentioned in the first determination.

[7] This matter is determined on the papers.

Compliance order

[8] Award Living had 21 days from 2 May 2024, being the date of the first determination, to pay Mr Tafuna:

- (a) arrears of wages of \$3,675 gross;
- (b) for his personal grievances \$4,432.15 (without deduction) for a PAYE deduction and \$5,000 (without deduction) as compensation under s 123(1)(c)(i) of the Employment Relations Act 2000 (the Act); and
- (c) \$71.55 for the Authority's filing fee.²

[9] The time for payment by Award Living has well passed. There is no indication before the Authority of any attempt being made to comply with the first determination or of any intention to do so in the future. In those circumstances I exercise my discretion

² Above at n 1, at [25].

to under s 137(1)(b) of the Employment Relations Act 2000 to order compliance with the orders for payment in the first determination.

Costs

[10] Mr Tafuna has been successful before the Authority in his compliance application. No representation fees were incurred. However, he is entitled to be paid for the Authority's filing fee of \$71.55 for this application.

Orders

[11] Within 14 days of the date of this determination Award Living Limited is to:

- Comply with the Authority's determination *Viliani Tafuna v Award Living Limited* [2024] NZERA 252 by paying Viliani Tafuna:
 - arrears of wages of \$3,675 gross;
 - for his personal grievances \$4,432.15 (without deduction) for a PAYE deduction and \$5,000 (without deduction) as compensation under s 123(1)(c)(i) of the Act; and
 - \$71.55 for the Authority's filing fee; along with
- Pay Viliani Tafuna \$71.55 for the Authority's filing fee on this compliance application.

Nicola Craig
Member of the Employment Relations Authority