

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Aasho Warsame
AND CCNP Limited (in liquidation)
REPRESENTATIVES John Hancock, for Applicant
No appearance for Respondent
MEMBER OF AUTHORITY Marija Urlich
INVESTIGATION MEETING 10 August 2006
DATE OF DETERMINATION 13 September 2006

DETERMINATION OF THE AUTHORITY

[1] On 22 June 2006 Ms Warsame lodged an application with the Authority seeking compliance with a mediated record of settlement entered between parties Aasho Warsame and Oodian (Auckland City) Limited on 27 February 2006, interest on that settlement sum and costs. The respondent did not file a statement in reply with the advised timeframe and Ms Warsame was directed to personally serve a copy of the statement of problem and notice of investigation meeting on the respondent at its address for service. I am satisfied that Ms Warsame has complied with that direction on 20 July 2006.

[2] The respondent was not in attendance at the investigation meeting at the scheduled time. Prior to commencing the investigation meeting the support officer dealing with this matter telephoned the respondent at its address for service to inquire as to the respondent's whereabouts. He was advised that the respondent had been placed in liquidation and given the name of the appointed liquidator. The office of the liquidator was then contacted and advised the Authority that they were not dealing with the liquidation of a company of the named respondent. It was later brought to the Authority's attention that on 26 July 2006 Oodian (Auckland City) Limited had changed its name to CCNP Limited and that a liquidator had been appointed on 28 July 2006. Therefore, the respondent should be referred to as CCNP Limited (in liq).

[3] On 11 August I wrote a minute to the parties advising that the Authority could not continue with these proceedings without the consent of the liquidator¹.

[4] On 15 August 2006 Mr Rob Merlo, the liquidator appointed to CCNP Limited (in liq), wrote to the Authority advising that his office was not aware of the proceedings, that the company holds no assets, that a relevant claim form could be sent to Ms Warsame at her request and that consent was given for any costs awarded by the Authority.

[5] On 17 August Mr Hancock wrote to the Authority seeking that the Authority move to determine Ms Warsame's application in the absence of any opposition to a continuation of those proceedings from Mr Merlo. This letter was copied to Mr Merlo and his response was sought. None has been received. On 6 September Mr Hancock wrote to the Authority advising

¹ Section 248(1)(c) Companies Act 1993

that Ms Warsame had received a proof of debt form from Mr Merlo and seeking the Authority's determination of the matter.

[6] I am satisfied that Mr Merlo, the liquidator appointed to CCNP Limited (in liq), has consented to the continuation of these proceedings.

Non Compliance

[7] CCNP Limited (in liq) agreed to direct credit into Ms Warsame's bank account the sum of \$750 by 3 March 2006 in settlement of her personal grievance. Ms Warsame told me at the investigation meeting that she has not received any of these monies and provided copies of her bank statements to support her claim.

[8] I am satisfied that CCNP Limited (in liq) has not complied with the record of settlement entered between the parties on 27 February 2006.

Costs

[9] Ms Warsame seeks costs. I have received a memorandum from Mr Hancock seeking a contribution to Ms Warsame's legal costs \$1920 plus \$70 for the Authority filing fee. It is appropriate that an order for costs be made in Ms Warsame's favour to the amount of \$500.

Orders

[10] I order CCNP Limited (in liq) comply with the record of settlement dated 27 February 2006 by 13 October 2006.

[11] I order CCNP Limited (in liq) pay to Aasho Warsame interest on the sum of \$750 at the rate of 9% per annum from 3 March 2006 until the date of payment.

[12] I order CCNP Limited (in liq) pay to Aasho Warsame costs of \$500.

Marija Urlich
Member of Employment Relations Authority