

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

[2013] NZERA Wellington 127  
5430560

BETWEEN

AARON WOODCOCK  
Applicant

AND

TODD JOHNSON  
CONTRACTING LIMITED  
Respondent

Member of Authority: P R Stapp

Representatives: Paul Gillespie Counsel for Applicant  
Todd Johnson for Respondent

Investigation Meeting: On the papers at Wellington 10 October 2013

Submissions received: By telephone conference 10 October 2013

Determination: 10 October 2013

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**COMPLIANCE DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] This applicant is seeking the payment of an outstanding amount of compensation in a record of settlement dated 14 June 2013. The respondent accepts that the money is owed, but was not paid because of the arrangements put in place for a receipt of payment was not made involving the applicant's Counsel.

[2] The matter was not sent to mediation because the problem is an outcome of mediation for compliance; prior attempts between the parties to settle on a payment and/or payments proved unsuccessful; and the applicant is entitled to enforcement of a record of settlement where there has been a breach and the applicant denied the use of his money on time. I was satisfied that mediation would not be constructive.

[3] Furthermore, s 159A of the Employment Relations Act 2000 does not apply as the application has been placed on the Authority Member's schedule and the applicant has been denied the use of his money that he had good reason to believe would be paid as agreed and on time.

### **Issues**

[4] Is this a matter for a compliance order and under what terms?

### **The facts**

[5] The applicant and respondent signed off a record of settlement agreeing to a payment being made by three instalments. The record of settlement was signed by a MBIE mediator under s 149 of the Employment Relations Act 2000 (the Act). The first instalment was paid by the respondent, but the two remaining instalments have not been paid by the respondent. The respondent accepts that the amount owed is \$8,000.

### **Determination**

[6] This is a matter for a compliance order under s 137 and s 138 of the Act. It accords with the terms of the record of settlement and the consent arrangement entered into today.

### **Orders of the Authority**

[7] Following a discussion with the Authority the parties reached an agreement on the arrangements for two instalments to complete the payment of the full outstanding amount. By consent I order Todd Johnson Contracting Limited to pay to Aaron Woodcock \$6,000 (six thousand dollars) by 24 October 2013, plus \$2,000 (two thousand dollars) by 20 November 2013. The payments are to be made by Todd Johnson Contracting Limited to the Johnson Lawrence lawyers Trust Account (the details of which are held by the parties).

[8] This is a matter for costs that the parties have not been able to agree on. The applicant's costs have been \$1,200 plus GST plus the filing fee. Costs should be based on the notional daily tariff applied for investigation meetings. This matter has been determined on the papers and by a short telephone conference. That arrangement has saved both parties more costs in time and appearing at a hearing. There has been an agreement sensibly reached on the application of the outstanding amount that is due, but not on costs. The applicant deserves a contribution to his costs. My reasons are:

- (i) That there was no requirement for the parties to attend and prepare for a full investigation meeting.
- (ii) That the preparation involved the filing of a statement of problem and attaching the correspondence, including the email attempts to get the payment.
- (iii) That there was the time involved in the conference call.
- (iv) That the applicant has reasonably incurred costs to get his payment, plus the filing fee of \$71.56.

[9] Todd Johnson Contracting Limited is to pay Aaron Woodcock \$300 costs based on the tariff and \$71.56 filing fee.

P R Stapp

Member of the Employment Relations Authority