

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2013] NZERA Auckland 125

5402091

|         |                                     |
|---------|-------------------------------------|
| BETWEEN | SEAN AITKENHEAD<br>Applicant        |
| A N D   | BRUSCHETTERIA LIMITED<br>Respondent |

|                        |  |
|------------------------|--|
| Member of Authority:   | James Crichton   |
| Representatives:       | David Prisk, Advocate for Applicant<br>No appearance for Respondent                |
| Submissions Received:  | 20 February 2013 and 4 March 2013 from Applicant<br>No submissions from Respondent |
| Date of Determination: | 12 April 2013  |

---

**SUPPLEMENTARY DETERMINATION OF THE AUTHORITY**

---

**Employment relationship problem**

[1] In its substantive determination dated 1 February 2013, the Authority made orders in respect of the employment relationship brought to it by Mr Aitkenhead concerning his employment with Bruschetteria Limited (Bruschetteria).

[2] The Authority set a time limit in which those payments to Mr Aitkenhead were to be made, failing which a penalty would be payable by Bruschetteria to Mr Aitkenhead.

[3] One of Mr Aitkenhead's complaints in the Authority's investigation was that he had not been provided with a written employment agreement. The Authority found that that was the case but stayed its hand in issuing a penalty for that failure, in an endeavour to encourage Bruschetteria to pay the other amounts it owed Mr Aitkenhead, particularly wages.

## **Determination**

[4] In the result, Bruschetteria has taken no steps to satisfy the Authority's decision of 1 February 2013 and accordingly the Authority now imposes a penalty of \$1,000 to be payable by Bruschetteria Limited to Mr Aitkenhead for the failure to supply him with a written employment agreement in accordance with s.65(1) of the Employment Relations Act 2000.

[5] That penalty is in addition to the orders made against Bruschetteria Limited in favour of Mr Aitkenhead in the Authority's earlier determination of 1 February 2013.

James Crichton  
Member of the Employment Relations Authority