

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 159/09
5147252

BETWEEN	DANIEL BEAMAN Applicant
AND	METROPOLIS SERVICED APARTMENTS LIMITED Respondent

Member of Authority: Vicki Campbell

Investigation Meeting: On the papers

Determination: 20 May 2009

DETERMINATION OF THE AUTHORITY

[1] Mr Beaman claims Metropolis Serviced Apartments Limited (“Metropolis”) has failed to honour a settlement agreement entered into by the parties on 9 April 2009. Mr Beaman seeks compliance with the terms of the agreement.

[2] Mr Dylan Marriott was originally acting on behalf of Metropolis, however, he has advised the Authority that he no longer has instructions to act. Following email correspondence with Mr Marriott during which the Authority expressed its intention to determine this matter on the papers Mr Marriott advised that the respondent had no further comment to make on this matter.

[3] I have proceeded therefore to determine the matter on the papers before the Authority.

[4] The Authority has a copy of the settlement agreement signed by a Mediator from the Department of Labour and endorsed to the effect that the mediator had explained to the parties that the settlement was final, binding and enforceable. The Record of Settlement is dated 9 April 2009.

[5] To settle the employment relationship problem Metropolis agreed, among other things, to pay to Mr Beaman \$6,000 within 10 days of the date of signing the Record of Settlement.

[6] Mr Beaman has not received the promised payment.

[7] In correspondence received from Mr Marriott he explains that Mr Alan Badcock, Metropolis's Accountant wrote to the Department of Labour, Mediation Services explaining that the company had been sold on 1 April 2009 and was insolvent and unlikely to pay its creditors. A check on the Companies Register at the time of writing this determination shows the company as still being registered and does not indicate that the company is in liquidation.

[8] The Record of Settlement was signed by the Mediator on 9 April 2009. Therefore it was enforceable from that date. The settlement is in full and final settlement of "...all matters..." between the parties.

[9] In accordance with its terms and following the signing off of the Record of Settlement, Metropolis was to have paid Mr Beaman the amount of \$6,000 on or before 19 April 2009 being ten days from 9 April 2009 when the Record of Settlement was signed.

Metropolis Serviced Apartments Limited is ordered to comply with the Record of Settlement it entered into with Mr Beaman and to pay to him the sum of \$6,000 being the amount Metropolis has agreed to pay. Metropolis Serviced Apartments Limited is ordered to make the payment immediately.

Costs

[1] Mr Beaman shall have the lodgement fee on his application.

Metropolis Serviced Apartments Limited is ordered to pay to Mr Beaman \$70.00 being the lodgement fee on his application.

Vicki Campbell
Member of Employment Relations Authority