

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI  
TE WHANGANUI-Ā-TARA ROHE**

[2024] NZERA 348  
3256199

BETWEEN                      BRENT CAMERON  
   Applicant  
  
AND                                INDUSTRIAL ADVANCES (NZ)  
   LIMITED  
   Respondent

Member of Authority:        Sarah Kennedy-Martin  
  
Representatives:              Brent Cameron for the Applicant  
   Jim Hughes for the Respondent  
  
Investigation Meeting:        On the papers  
  
Submissions Received:        9 April 2024 from the Applicant  
   26 April 2024 from the Respondent  
  
Determination:                13 June 2024

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Brent Cameron seeks a compliance order because his previous employer, Industrial Advances (NZ) Limited (IANZL) has not complied with a settlement agreement that was agreed between the parties. Mr Cameron and IANZL were previously parties to an employment relationship. In 2022, after an employment dispute arose, the parties resolved their differences by entering into a record of settlement in accordance with s 149 of the Employment Relations Act 2000 (the Act). The amounts due and an agreed payment plan were set out in the record of settlement.

[2] Jim Hughes, managing director and CEO of IANZL, accepts IANZL has not paid all the money IANZL agreed to pay Mr Cameron under the settlement agreement, but it has paid most of it. Mr Hughes says IANZL is currently not trading, has no income and is being supported by its shareholders. Mr Hughes' submission to the

Authority was brief. He says although IANZL is not in a position to pay the full amount at this time, it "...is able to pay the outstanding amounts as they fall due."

[3] Mr Hughes also told the Authority as Mr Cameron is gainfully employed and IANZL provided a reference so he could get his current position, he is not being adversely affected by a change in the payment terms.

### **The Authority's investigation**

[4] At a case management conference with the parties, the parties agreed that this matter could be heard on the papers. Mr Cameron declined to return to mediation saying he wanted the Authority to resolve this matter now. Mr Hughes was willing to attend mediation.

[5] The parties agreed the matter could be heard on the papers. In addition to his statement of problem and the settlement agreement, Mr Cameron provided a summary of events in a brief email to the Authority and IANZL also provided a summary of its position by email to the Authority.

### **The settlement agreement**

[6] A Ministry of Business, Innovation and Employment mediator certified their settlement agreement meaning that the terms agreed were final and binding and can be brought before the Authority for the purposes of enforcement.

[7] Clause four of the settlement agreement, required IANZL to make five payments towards the legal costs incurred by Mr Cameron. Clause four has been complied with.

[8] Clause five required IANZL to make eight equal payments of \$1,500.00 per month from 31 May 2023 to 31 December 2023. Mr Cameron says that IANZL only made one payment before the payments stopped. On 17 August 2023, with the assistance of the mediator, the parties renegotiated the remaining seven payments according to an adjusted payment plan. Mr Cameron provided the status of the agreed payments under the adjusted plan as follows:

- (a) 30 June 2023 (payment due on 18 August 2023) – paid on 18 August 2023

- (b) 31 July 2023 (payment due on 31 August 2023) – paid on 1 September 2023.
- (c) 30 August 2023 (payment due on 30 September 2023) – paid on 1 October 2023.
- (d) 30 September 2023 (payment due on 31 October 2023) – paid on 1 November 2023.
- (e) 31 October 2023 (payment due on 30 November 2023) – not paid.
- (f) 30 November 2023 (payment due on 31 December 2023) – not paid.
- (g) 31 December 2023 (payment due on 31 January 2024) – not paid.

IANZL did not dispute that this plan was agreed or that the monies set out above have not been paid.

**Has there been a breach of the settlement agreement?**

[9] Clause three of the settlement agreement required IANZL to pay Mr Cameron the sum of \$12,000.00 (gross) in accordance with payment schedule by way of eight equal payments of \$1,500.00 between 31 May 2023 and 31 December 2023. The payment schedule was updated by agreement and the last three payments totalling \$4,500.00 have not been paid.

[10] These payments were due on 30 November and 31 December last year and the final payment on 31 January 2024. The earliest of these payments is now seven months overdue.

[11] It is not in dispute that the last three payments have not been made. There has been a breach of clause three of the settlement agreement.

**Should a compliance order be made?**

[12] A compliance order may be made when any person has not observed or complied with the provision of an employment agreement or any terms of settlement or a decision that is a breach of s 149(3), and s 151 provides it may be enforced by a compliance order.<sup>1</sup>

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<sup>1</sup> Employment Relations Act 2000, s 137(1)(a)(iii).

[13] I have already found there has been a breach of the agreed terms between the parties and under s 149(3) of the Act and those terms are final, binding, and enforceable.

[14] Mr Hughes set out in his email to the Authority the company is no longer trading as the reason why the last three payments have not been made and added that Mr Cameron understood the commercial risks of the venture and submitted a determination should be made on that basis.

[15] I do not understand Mr Hughes to be saying the money will not be paid in the future but he gave no indication as to when the outstanding monies can be paid. The short point is that the record of settlement recorded a full and final settlement between Mr Cameron and IANZL. Mr Cameron has already attended mediation to settle the employment dispute and then returned to mediation for assistance with the first instance of non-compliance with the record of settlement.

[16] I have considered whether mediation would assist in resolving this matter but given this is the second default by IANZL and the fact the parties have already engaged with mediation services on two occasions, I do not consider mediation will contribute to resolving the matter. Mr Cameron is simply seeking compliance with the agreement entered into.

[17] I did not receive any financial information about IANZL other than Mr Hughes' email stating the company was no longer trading and is being supported by its shareholders. IANZL remains on the Companies Register.

[18] In light of the background provided by Mr Cameron and Mr Hughes I am satisfied there has been a breach of agreed terms that were final, binding and enforceable and a compliance order is necessary given the balance of the monies remains unpaid. There is an ongoing obligation under the settlement agreement on IANZL to comply with the settlement agreement it entered into with Mr Cameron.

## **Orders**

[19] Industrial Advances (NZ) Limited is ordered to comply with the settlement agreement within 30 days of this determination and pay Brent Cameron \$4,500.00 and the Authority filing fee of \$71.55.

**Costs**

[20] As both parties were self-represented there is no issue as to costs.

Sarah Kennedy-Martin  
Member of the Employment Relations Authority