

Determination Number: WA 37/05

File Number: WEA 284/04

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON OFFICE**

<b>BETWEEN</b>	Percy Crawford (applicant)
<b>AND</b>	Airport Shuttles Limited (first respondent)
<b>AND</b>	Alan Jenner (second respondent)
<b>AND</b>	Geoff Neal t/a AP Shuttles (third respondent)
<b>REPRESENTATIVES</b>	Peter Gilbert for the applicant Alan Jenner represented the first respondent and himself; Geoff Neal represented himself
<b>MEMBER OF THE AUTHORITY</b>	Denis Asher
<b>INVESTIGATION</b>	Wellington, 3 March 2005
<b>DATE OF DETERMINATION</b>	3 March 2005

**DETERMINATION OF AUTHORITY**

**Employment Relationship Problem**

1. In my determination dated 15 July 2003 (WA 100/03) I found in favour of the applicant's claim that he had been unjustifiably dismissed. Compensation of \$4000 for humiliation, etc was awarded to the applicant: I directed that the third respondent pay that sum, less 25% contribution, i.e. payment of \$3,000 was to be paid to the applicant by the third respondent, Mr Geoff Neal. I also found that the applicant was entitled to recover the loss of three months wages, less income received by him during that period, less 25% contribution. Leave was reserved to the parties to refer the matter back to the Authority in the event that the applicant and the third respondent were unable to reach agreement on the sum owing. I also penalised the first and second respondents for breaching ss. 134 (2) of the Act and directed that that money be paid entirely to the applicant. Costs were reserved.
2. In a statement of problem received on 10 August 2004 Percy Crawford claimed that none of the three respondents had complied with the directions of the Authority.
3. In statements of reply received on 19 & 26 August the respondents confirmed that payment had not been made to Mr Crawford because their financial circumstances did not permit, but that they were willing to enter into arrangements to pay the outstanding amounts by regular part-payments.
4. The parties had not undertaken mediation in respect of this new employment relationship problem: I elected not to require the parties to do so – ss. 159 (1) (b) (i) of the Act applied.

### **Investigation**

5. During a telephone conference held on 16 September 2004 Mr Crawford agreed to repayment proposals put forward by the respondents: by letters dated 22 September and 4 October Mr Crawford withdrew that agreement.
6. During a telephone conference held on 9 November the parties agreed to an investigation in Wellington on 3 March 2005. The third respondent usefully provided details in advance of his financial situation. The first and second respondents offered the same if confidentiality was assured. Correspondence was also copied to the

Authority of efforts by the respondents to put in place a repayment regime acceptable to Mr Crawford.

### **Settlement**

7. I am pleased to record that during today's investigation the parties reached the following agreement and asked that it be recorded by way of a consent determination:
- a. Having started paying to the applicant \$100 at the end of each month from October 2004, the first and second respondents will continue those monthly payments until such time as their house is sold when the outstanding monies owed to Mr Crawford will be paid in full; and
  - b. Counsel for Mr Crawford, Mr Peter Gilbert, confirmed he had received today from the third respondent a cheque for \$1,250. Subject to that cheque clearing, the applicant agreed to Mr Neal's proposal to pay to \$50 per week until the monies owed by the third respondent to the applicant are paid in full. Those monies include compensation for humiliation, etc of \$3,000 and wages yet to be calculated by the parties. Leave is reserved to the parties to return the amount of wages owed by the third respondent to Mr Crawford to the Authority if agreement is not forthcoming on the same.

### **Determination**

8. At the request of the parties the agreement set out in par 7 above is the Authority's determination in this matter. The parties are to be commended for the practical and effective manner in which they went about settling their problem.

**Denis Asher**

**Member of Employment Relations Authority**