

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2019] NZERA 664  
3073312

BETWEEN            KARN EVANS  
                                 Applicant  
  
AND                    ADENS TRADING LIMITED  
                                 Respondent

Member of Authority:    Trish MacKinnon  
  
Representatives:         Roland Samuels, advocate for the Applicant  
                                 Aden Omnet, for the Respondent  
  
Investigation Meeting:    18 November 2019 by telephone conference  
  
Date of Determination:    18 November 2019

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1]     Karn Evans asks the Authority to order Adens Trading Limited's compliance with the provisions of a Record of Settlement the parties entered into on 16 August 2019. The settlement was signed by a mediator employed by the Ministry of Business, Innovation and Employment in accordance with s 149 of the Employment Relations Act 2000 (the Act).

[2]     For the purposes of this application the salient clauses of those agreed terms of settlement are as follows:

"3            The Employer shall pay to Mr Evans the sum of \$4,300 without deduction as a compensatory sum pursuant to s 123 1(c)(i) of the Employment Relations Act 2000. The employer agrees that within seven days of this Agreement being signed by a Mediator from the Ministry of Business, Innovation and Employment that they will pay these monies by way of weekly instalments of \$250. If the

employer defaults with a single weekly payment, all monies will become payable immediately.

- 4 The Employer will also make a contribution to the Employee's costs of \$1700 in full including GST to a nominated bank account within 7 days of Unfairly Dismissed Limited providing an invoice to the employer."

[3] Mr Karn claims Adens Trading Limited has not complied with the terms of settlement. He says it has not made any weekly payments of \$250 as required by clause 3 of the settlement agreement and has only made a part payment of the contribution to his costs as required by clause 4.

[4] Aden Omnet is the sole director and shareholder of Adens Trading Limited (Adens Trading). He acknowledges the respondent has not complied with the terms of settlement. Mr Omnet's position is that he has made regular payments in amounts the company could afford.

[5] In the course of a telephone conference with the parties on 18 November 2019, Mr Omnet agreed that there was a shortfall in Adens Trading's payments in respect of both clauses 3 and 4 of the settlement agreement. Those shortfalls were identified as being \$3,900 in respect of clause 3 and \$770 in respect of clause 4.

[6] Following a discussion of options for progressing this matter in the Authority, including the likelihood of further costs implications, Mr Omnet stated his preferred option was for the Authority to issue a compliance order against Adens Trading.

### **Orders**

[7] Adens Trading Limited is ordered to pay, under s 137 of the Act, within seven days of the date of this determination, the following sums that are outstanding from the 16 August 2019 mediated settlement agreement:

- (a) To Karn Evans: \$3,900.00 without deduction, being the remainder of the compensatory sum from clause 3 of that settlement agreement; and
- (b) To Unfairly Dismissed Limited: \$770.00, being the remainder of the contribution to costs from clause 4 of that settlement agreement.

[8] Failure by Adens Trading Limited to comply with these orders may result in Mr Evans applying to the Employment Court to exercise its powers under s 140(6) of the Act.

**Costs**

[9] The parties have agreed no further issue as to costs arises from this application.

**Trish MacKinnon**  
**Member of the Employment Relations Authority**