

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 397
5515416

BETWEEN

MARK GLOVER
Applicant

A N D

OASIS TECHNOLOGIES
LIMITED
Respondent

Member of Authority: Anna Fitzgibbon

Representatives: Mark Glover, in person
Michael Ridenton, Director of Respondent

Investigation Meeting: 29 September 2014

Date of Determination: 29 September 2014

DETERMINATION OF THE AUTHORITY

- A. The application for compliance order is declined.**
- B. The respondent, Oasis Technologies Limited is ordered to reimburse the applicant, Mr Glover costs in the sum of \$71.56 being the filing fee. The sum of \$71.56 is to be paid by Oasis to Mr Glover within 7 days of the date of this determination.**

Employment Relationship Problem

[1] On 30 July 2014, a Deed recording agreed terms of settlement (the Settlement) was signed under s.149 of the Employment Relations Act 2000 (the Act). The applicant, Mr Mark Glover, and the respondent, Oasis Technologies Limited (Oasis), were parties to the Settlement. This Settlement was signed by Mr Glover and Mr

Michael Ridenton, Director of Oasis. The Settlement was signed by a mediator employed by the Ministry of Business, Innovation and Employment (MBIE).

[2] Under the terms of the Settlement, Oasis is to pay the Inland Revenue Department the sum of \$5072.18 gross by 31 October 2014, for Mr Glover's kiwisaver account. Oasis was also to pay compensation of \$5000 under s123(1)(c)(i) of the Employment Relations Act 2000 (the Act). This sum was to be paid in 2 instalments, the first sum of \$3500 within 7 days of the date of the settlement, (8 August) and the second sum of \$1500 by 31 August. Other terms were also agreed but for the purposes of this matter these are the relevant terms. The sum of \$2500 was paid by Oasis to Mr Glover on 25 August.

[3] On 22 August 2014, Mr Glover filed a Statement of Problem in the Authority seeking an order that Oasis comply with the Settlement and seeking costs in the sum of \$750.

[4] Oasis did not receive the Statement of Problem until 2 September as both its directors were overseas for 2 weeks due to the serious illness of Mr Ridenton's father in law. Upon receipt of the Statement of Problem there was an exchange of correspondence with the Authority to which both parties were copied concerning the claim and whether Mr Glover had returned a data stick to Oasis. Oasis paid the balance of the monies owing to Mr Glover under the Settlement on 2 September. The Settlement was complied with on 2 September. The application for compliance order is declined.

Costs

[5] Mr Glover did not withdraw his claim and wished to pursue a claim for costs in the Authority. On 5 September Mr Glover was requested by the Authority to provide details of costs incurred and the issue as to costs was to be dealt with on the papers. However, as there was no response to this suggestion and no evidence of costs received, the investigation meeting scheduled for Monday, 29 September 2014 was confirmed to go ahead.

[6] At the investigation meeting, Mr Glover accepted all matters under the Settlement had been resolved. Mr Glover did not produce invoices or any other evidence of costs incurred. Mr Glover submitted that he wished to claim his own costs for attendances before the Authority.

[7] The Authority's power to award costs arises from Schedule 2, clause 15 of the Employment Relations Act 2000 (the Act). This confers a wide discretion on the Authority to award costs, on a principled basis.

[8] The principles guiding the Authority's approach to costs are set out by the full Employment Court in *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz*¹. Those principles are so well recognised I do not need to restate them.

[9] The investigation meeting this morning took less than 30 minutes and in my view was not necessary. Mr Glover did not present the Authority with any evidence of costs incurred. Mr Glover is entitled to costs of \$71.56 being the filing fee.

[10] Accordingly, I order Oasis to pay Mr Glover the sum of \$71.56 within 7 days of the date of this determination.

Anna Fitzgibbon
Member of the Employment Relations Authority

¹ [2005] 1 ERNZ 808