

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

[2020] NZERA 438
3111774

BETWEEN

KIMIORA GREY
Applicant

AND

NOSTRO VIAGGIO LIMITED
Respondent

Member of Authority: Eleanor Robinson
Representatives: Applicant in person
No appearance for the Respondent
Investigation Meeting: 22 October 2020 at Auckland
Date of oral Determination: 22 October 2020
Date of written Determination: 22 October 2020

ORAL DETERMINATION OF THE AUTHORITY

Application for compliance order

[1] The Applicant, Ms Kimiora Grey, has applied to the Authority under s 137 of the Employment Relations Act 2000 (the Act) for an order requiring the Respondent, Nostro Viaggio Limited, to comply with the terms of the determination given by the Authority (Determination [2020] NZERA 44).

[2] In the determination which was issued on 31 January 2020, the Authority ordered Nostro Viaggio Limited to pay Ms Grey the sum of:

- (i) \$6,000 without deduction, distress compensation under s 123(1)(c)(i) of the Act;
- (ii) \$9,884.63 gross wage arrears; and
- (iii) \$71.56 to reimburse her filing fee.

[3] On 12 July 2020 Ms Grey applied to the Authority for a Compliance Order, claiming that Nostro Viaggio Limited has not paid her any of the monies to which she was entitled under the determinations.

Note

[4] No Statement in Reply having been received from the Respondent, the Authority instructed a process server to re-serve Ms Grey's Statement of Problem and Notice of Investigation at the registered address of Nostro Viaggio Limited. Service was effected by the process service affixing the documents to the front gate at 13 Turanga Road, Henderson, the registered office, at 2.51 p.m. on 1 October 2020. The Authority was provided with photographs and an affidavit of service.

[5] I am satisfied that service has been properly effected.

[6] There was no appearance for Nostro Viaggio Limited at the Investigation Meeting and an Authority Support Officer was unable to contact it on the day of the Investigation Meeting.

[7] Given the difficulties encountered in obtaining cooperation in the Authority's investigations at any stage from Nostro Viaggio Limited, I was satisfied that no good cause had been shown for its failure to attend and I consequently proceeded with the Investigation Meeting pursuant to clause 12 of Schedule 2 of the Act

Compliance Order

[8] I am satisfied that Nostro Viaggio Limited not complied with the terms of the Authority's determinations of 31 January 2020. It is just in the circumstances for an order to be made requiring Nostro Viaggio Limited to comply with the determination.

[9] Nostro Viaggio Limited is ordered to pay Ms Grey \$6,000 as distress compensation pursuant to s 123 (1)(c)(i) of the Act, \$9,884.63 gross in respect of wage arrears, and \$71.56 in respect of the Authority filing fee. Nostro Viaggio Limited is further ordered to pay \$71.56 to Ms Grey, the fee on the application for the Compliance Order.

[10] Nostro Viaggio Limited is ordered to comply as ordered above within 14 days of service of this determination.

Costs

[11] Ms Grey was not legally represented in this matter and therefore I make no order for costs.

Eleanor Robinson
Member of the Employment Relations Authority