



- [3] Since that time Mr Peck has failed to comply with the remainder of the record of settlement: he has not paid the balance of the sum he originally undertook to pay to the Company, by the end of April 2009.
- [4] The Company now seeks a compliance order for the entire sum Mr Peck undertook to pay it, as set out in the original settlement agreement.

### **Today's Investigation**

- [5] Notice of today's investigation was sent to the parties, including Mr Peck on 4 May 2009. A 'track & trace' confirms the advice to Mr Peck was signed for. Mr Peck was already on notice that, should he fail to meet his promise to pay the monies owed to the Company, compliance action would almost certainly follow. Mr Peck has made no attempt to communicate to the Authority today the reasons for his absence, nor the reasons for his failure to meet his undertaking to the Authority (given by telephone on 25 February 2009). I am satisfied it was appropriate in all the circumstances to proceed to hear and determine this matter in his absence: Section 160 and Clause 12 of the Employment Relations Act 2000 and Schedule 2 applied.
- [6] During today's investigation Ms Karen Fox confirmed that the Company has received no payment from Mr Peck.

### **Findings**

- [7] The respondent is in breach of his record of settlement.
- [8] No explanation has been provided by Mr Peck in respect of his failure to meet that settlement or his undertaking to the Authority in respect of 'catching up' outstanding payments.
- [9] Mr Peck's conduct goes to the heart of good faith.
- [10] There was no reason not to grant the Company's application for a compliance order.
- [11] By way of an oral determination I granted the Company's application.

**Determination**

- [12] By way of an oral determination, Mr Peck is directed to comply with the record of settlement he entered into with the Company and to pay to it no later than close of business on Tuesday 26 May 2009 the sum of \$1,100 (eleven hundred dollars) being the sum outstanding as of that date per the payment schedule set out in the record of settlement.
- [13] As already directed, Mr Peck is also to pay the Company its filing fee of \$70.
- [14] I repeat my advice to the respondent: failure to pay will only result in this matter becoming a greater debt. That is because of the additional costs the Company will almost certainly incur and recover in seeking compliance. Powers available to the courts to enforce compliance include fines, sequestration (i.e. seizing) of property and imprisonment.

**Denis Asher**

**Member of the Employment Relations Authority**