

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Jonathan Denis Henning (Applicant)

AND Neil Thompson (Respondent)

REPRESENTATIVES Jonathan Henning in person
No appearance for Respondent

MEMBER OF AUTHORITY James Crichton

INVESTIGATION MEETING On the papers
DATE OF DETERMINATION 23 January 2006

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant Labour Inspector (Mr Henning) alleges that the respondent (Mr Thompson) has failed to comply with a demand notice served on him pursuant to section 224 of the Employment Relations Act.

[2] The Authority is asked to make a compliance order under section 137 of the Act to enforce the terms of the demand notice.

[3] The demand notice was served on Mr Thompson on 30 March 2005 and no objection had been lodged with the Authority within the requisite time in terms of the right so to do under section 225 of the Act.

[4] When the application from Mr Henning came before the Authority, I instructed the parties to make themselves available by way of telephone conference in the hope of encouraging Mr Thompson to meet his obligations in a voluntary way. Despite agreeing to attend the telephone conference, Mr Thompson in fact was not available at the appointed time.

[5] Where, as in this case, no objection to the demand notice is lodged with the Authority, then, in terms of subsection (4) of section 225 of the Act, the demand notice imposes a legal requirement on the employer to comply with it and is prima facie evidence that the money amount specified in the demand notice is owed by the employer to the employee.

Determination

[6] I am satisfied that the demand notice was properly served on Mr Thompson on 30 March 2005 and that Mr Thompson had the appropriate information available to him in order to decide whether or not to lodge an objection to that demand notice, and that the time for that objection to be lodged has now passed.

[7] Mr Thompson did not in fact lodge an objection to the demand notice within time and the sum specified in the demand notice of \$816 gross has not been paid.

[8] The employer, having not exercised his right to object in this particular matter, and having not met his obligations by paying the sum referred to in the demand notice, I direct Mr Thompson to comply with the demand notice dated 30 March 2005 by paying to the Labour Inspectorate, PO Box 5510, Dunedin, for the attention of Mr Henning, the sum of \$816 gross. That payment is to be made within 14 days of the date of this Determination and Mr Henning is directed to ensure that such payment is made available directly and without deduction to the employee whose entitlement this payment is.

Costs

[9] Costs are to lie where they fall.

James Crichton
Member of Employment Relations Authority