

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 119/08
5125204

BETWEEN

LABOUR INSPECTOR
DOUGLAS HIXON
Applicant

AND

ADVANCED
COMMUNICATIONS
INTERNATIONAL LIMITED
Respondent

Member of Authority: James Crichton
Representatives: Douglas Hixon, Applicant
No appearance for Respondent
Investigation Meeting: On the papers
Determination: 13 August 2008

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant (Mr Hixon) is a Labour Inspector at Nelson. He alleges that the respondent (Advanced Communications) has failed to comply with two demand notices properly served on it pursuant to s.224 of the Employment Relations Act 2000.

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

[3] The demand notices were served on Advanced Communications on 15 April 2008 and no objection has been lodged with the Authority within the requisite timeframe in terms of the right so to do, under s.225 of the Act.

[4] When Mr Hixon's application came before the Authority, I instructed the parties to make themselves available by way of telephone conference but despite the best efforts of the Authority support staff, Advanced Communications refused to engage with the Authority's process. Indeed, at the point at which the demand notices were served on Advanced Communications, the recipient tore the notices up in front of the Labour Inspector effecting service.

[5] Where, as in this case, no objection to the demand notice is lodged with the Authority, then, in terms of s.225(4) 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 now specified in the demand notices is owed by the employer to the employees.

Determination

[6] I am satisfied that the demand notices were properly served on the employer, Advanced Communications, on 15 April 2008 and that Advanced Communications had the appropriate information available to it in order to decide whether or not to make an objection to those demand notices. I am further satisfied that time for that objection to be lodged, has now passed. Advanced Communications did not lodge an objection to the demand notices within time and the sums specified in the demand notices, being the sum of \$6,532.35 gross of holiday pay payable to James Royden Smith together with the sum of \$823.70 gross of holiday pay owed to Sara-Jean Crozier Richards, have neither of them been paid.

[7] As Advanced Communications has not exercised its right to object in this particular matter, nor has it met its obligations by paying the sums referred to in the demand notices, I direct that the employer is to comply with the demand notices dated 15 April 2008 by paying to the Labour Inspectorate, Department of Labour, P O Box 180, Nelson for the attention of Mr Hixon a total sum of \$7,356.05 gross. That payment is to be made within 14 days of the date of this determination. Mr Hixon is directed to ensure that, on receipt, those sums are to be made payable to the employees concerned in accordance with their entitlements.

Costs

[8] Costs will lie where they fall.

James Crichton
Member of the Employment Relations Authority