

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH OFFICE**

[2013] NZERA Christchurch 216  
5411908

BETWEEN HOME IMPROVEMENTS (2003)  
COMPANY LIMITED  
Applicant

AND ANTHONY MCLAUGHLIN  
Respondent

Member of Authority: David Appleton

Representatives: Gerald and Hine Mellish for the Applicant  
No appearance from the Respondent

Investigation Meeting: 21 October 2013 at Christchurch

Determination: 21 October 2013

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] The applicant company seeks a compliance order under s.137 of the Employment Relations Act 2000 (the Act) in relation to terms of settlement reached between the Applicant company and Mr McLaughlin on 2 April 2013. The applicant company complains that Mr McLaughlin has failed to make to it any of the monthly instalment payments of \$100 as required under the settlement agreement.

[2] Mr McLaughlin has not lodged a statement in reply or any denial in any other form to say that he does not owe the sums that the applicant company says are overdue. Although a copy of the notice of investigation meeting was served on Mr McLaughlin by way of an email to an email address which Mr McLaughlin has confirmed is valid, and despite a support officer of the Authority later speaking to Mr McLaughlin by telephone to confirm the date of the investigation meeting, Mr McLaughlin did not appear at the investigation meeting. As I was satisfied that he

was aware of the time and date of the investigation meeting, and had been warned of the consequences of his non-appearance, it proceeded in his absence.

[3] The relevant clause of the settlement agreement provides that Mr McLaughlin would pay to the applicant company the sum of \$1,000 to resolve a breach of contract claim. The settlement agreement provides that the \$1,000 was to be paid by way of 10 consecutive monthly instalments of \$100, with the first payment made on or before 30 April 2013. I am satisfied that the terms of the settlement agreement are enforceable by the parties under s.149(3) of the Act, and so I am empowered to make a compliance order pursuant to s.137 of the Act.

[4] As at the date of the investigation meeting, none of the instalment payments had been made, and so Mr McLaughlin currently owes the applicant company \$600. The settlement agreement does not provide that the whole sum of \$1,000 falls due if Mr McLaughlin defaulted on any instalment payment, so I can only order Mr McLaughlin to pay the sum of \$600.

[5] I am also empowered pursuant to paragraph 11 of Schedule 2 of the Act to award interest at the rate prescribed under s.87(3) of the Judicature Act 1908, which is currently 5% per annum. This interest shall start to accrue on the \$600 (or on any balance still outstanding) from Saturday 26 October 2013, and shall continue to accrue until the sum of \$600 has been paid to the applicant company in full.

[6] The remaining four instalments of \$100 have not yet fallen due, but I hereby direct that, if by 1 February 2014 Mr McLaughlin has not paid all or any of the remaining four instalments of \$100 each, the applicant company may apply to the Authority for a further compliance order under this file number in respect of any outstanding sum without having to lodge a fresh statement of problem.

### **Orders**

- [7] I order Mr McLaughlin to pay to Home Improvements (2003) Company Limited:
- a. the sum of \$600 by no later than Friday 25 October 2013;
  - b. under clause 11(1) of Schedule 2 to the Act, interest payable on \$600, or on any balance outstanding as at Saturday 26 October 2013, at the rate of 5% per annum being the rate prescribed under section 87(3) of the

Judicature Act 1908, until the date when the whole of the sum of \$600 pursuant to this determination has been paid;

- c. costs in the sum of \$71.56, being the application fee paid by the applicant company to the Authority in seeking this compliance order.

David Appleton

Member of the Employment Relations Authority