

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI Ā TARA ROHE**

[2022] NZERA 10
3117973

BETWEEN	CRAIG HOWELL Applicant
AND	DELIVER EASY LIMITED Respondent

Member of Authority:	Sarah Kennedy
Representatives:	No appearance for the Applicant Sarah Riceman, counsel for the Respondent
Investigation Meeting:	17 January 2022 at Wellington
Determination:	20 January 2022

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Craig Howell was a driver for Delivereasy Limited (Delivereasy). Mr Howell claimed he was an employee and not a contractor and therefore he was disadvantaged and/or unjustifiably dismissed by Delivereasy and is owed various statutory entitlements as an employee.

[2] The parties attended mediation in November 2020. In March 2021, Mr Howell's advocate advised the Authority she was withdrawing as his advocate and provided the Authority with Mr Howell's contact details.

[3] There had been no communication from Mr Howell to the Authority since 14 October when he advised the day before the case management conference that he was unable to attend and asked the Authority to wait for his new legal representative to get in contact before proceeding. The Authority agreed to put the matter on hold for one month so his new representative could get in contact.

[4] On 22 November 2021, after no further contact from Mr Howell or any representative, a CMC was set down for 9 December 2021. Mr Howell did not attend.

[5] An investigation meeting was set down for 17 January 2022 and Mr Howell received an email by way of service on 23 December 2021 notifying him of the investigation meeting venue, date and time.

[6] The parties were asked to notify the Authority by 5pm Monday 10 January 2022, and if they wished to attend the investigation meeting in-person, they must provide a vaccine certificate. If they could not the Authority would consider other ways for a party to take part. No response was received by Mr Howell.

[7] On 17 January 2022, Mr Howell did not attend the Authority's hearing room in Wellington by 9.30am when the investigation meeting was due to start. Sarah Riceman, counsel for Delivereasy did attend.

[8] I was satisfied that Mr Howell was aware of the time, date and location of the investigation meeting. Further the Notice of Investigation Meeting served on Mr Howell set out that the Authority could proceed in either party's absence and the matter may be dismissed.

[9] In Mr Howell's absence he has been unable to establish a case to answer. I have therefore decided to dismiss the matter in accordance with the Employment Relations Authority Regulations 2000.¹

[10] All of Mr Howell's claims are dismissed.

Costs

[11] Costs are reserved.

Sarah Kennedy
Member of the Employment Relations Authority

¹ Employment Relations Authority Regulations 2000, sch 1, form 8.