

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2024] NZERA 390
3276340

BETWEEN

GLENN HUGHES
Applicant

AND

SOUTHERN MEDICINAL
LIMITED
Respondent

Member of Authority: Philip Cheyne
Representatives: Applicant, in person
Greg Marshall for the Respondent
Investigation Meeting: 2 July 2024 by AVL
Date of Determination: 2 July 2024

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Glenn Hughes and Southern Medicinal Limited entered into agreed terms of settlement under s 149 of the Employment Relations Act 2000.

[2] Mr Hughes says that Southern Medicinal Limited has not complied with the agreed terms. By this application, Mr Hughes seeks to enforce those terms.

Response by Southern Medicinal Limited

[3] I am satisfied from the file that the statement of problem, directions of the Authority and notice of the investigation meeting were all served on Southern Medicinal Limited.

[4] Southern Medicinal Limited has not lodged a statement in reply. It is entitled to reply to Mr Hughes' application only with the leave of the Authority.

[5] Mr Marshall appeared for Southern Medicinal Limited at a case management conference on 2 April 2024 and by AVL this morning.

[6] At the case management conference, Mr Marshall said that the company expected to have funds to pay the agreed amounts shortly. In light of that, Mr Hughes consented to an adjournment. However, Mr Hughes later asked the matter to be rescheduled as he had not received the payments.

[7] An investigation meeting was scheduled for today and a notice was served on Southern Medicinal Limited.

[8] Mr Marshall's message to the Authority last evening was responded to early this morning. It then came to my attention that the meeting notice did not include the start time, although the date and time was included in the accompanying message. On my instructions, Mr Marshall was advised that he would need to appear at 9.30 am and could then apply for an adjournment.

[9] At the start of the meeting Mr Marshall told me that he had to leave shortly but could be available at 11.30 am. Mr Hughes was available, so I adjourned the meeting until 11.30 am.

[10] To the extent necessary, I validate any informality associated with the meeting notice not referring to the time the meeting was due to start. Southern Medicinal Limited had not been prejudiced by the omission.

[11] When we resumed, Mr Hughes confirmed that he still has not received the payments required by the agreed terms.

[12] Mr Hughes accepted that the company had not made the payments but told me that it should now be able to do so within 28 days.

A compliance order is appropriate

[13] Where a person has not complied with terms of settlement that are enforceable under s 149(3) of the Employment Relations Act 2000 (the Act), the Authority may by order require that person to do any specified thing for the purpose of preventing further non-compliance with those terms.

[14] Mr Hughes and Southern Medicinal Limited agreed to terms of settlement on 16 January 2024. The terms were signed by a mediator the same day. I am satisfied that the terms are final and binding on Mr Hughes and Southern Medicinal Limited and enforceable by them in accordance with s 149 of the Act.

[15] Mr Hughes confirmed today that he only seeks to enforce the agreed terms and is not claiming a penalty for any breach.

[16] Southern Medicinal Limited has not paid the compensation and holiday pay shown at paragraph 2 and paragraph 4 respectively of the agreed terms.

[17] As Mr Marshall's statement during the case management conference did not result in a resolution, I consider that a compliance order is required to ensure today's undertaking does bring matters to an end.

Summary and orders

[18] Southern Medicinal Limited is to comply with the agreed terms of settlement between it and Mr Hughes dated 16 January 2024 by making the payments to him as identified at paragraph 2 and 4 of the record of settlement no later than Tuesday 30 July 2024.

[19] Mr Marshall said that Southern Medicinal Limited has completed the necessary steps to comply with paragraph 3 of the agreed terms, so no further order is required.

[20] Enclosed with this determination is a copy of s 140 of the Act. I draw to Southern Medicinal Limited's attention the powers of the Employment Court set out at s 140(6) of the

Act on Mr Hughes' application, if Southern Medicinal Limited fails to comply with the Authority's compliance order.

[21] Mr Hughes as the successful party is entitled to costs against Southern Medicinal Limited to cover the expense of lodging this application. Southern Medicinal Limited is to pay Mr Hughes costs of \$71.55 by no later than Tuesday 30 July 2024.

Philip Cheyne

Member of the Employment Relations Authority