

[4] On 24 September 2018, Infinity's lawyers sent an email to Mr Lorigan, requesting him to comply with the Court's costs judgment and pay the sum of \$14,495 for costs without delay. Advice as to when payment could be expected was also requested. The evidence suggests there was no response.

[5] Mr Lorigan applied to the Court of Appeal for leave to appeal against this Court's judgments declining Mr Lorigan's application for joinder,⁵ and his application for a stay of proceedings in the Court,⁶ on which the costs orders were based.

[6] On 3 October 2018, Brown J directed Mr Lorigan to file further particulars of his application for leave specifying the question or questions of law he wished the Court of Appeal to consider. Mr Lorigan was also asked to explain, in respect of each question of law, why it is of such general or public importance or for some other reason should be determined by the Court of Appeal. Those particulars were to be provided by 19 October 2018.

[7] On 5 November 2018, the Registrar of the Court of Appeal advised the Registrar of the Employment Court that the former court was waiting for payment of the filing fee, so that no substantive steps were being taken in that court.

Submissions

[8] Mr Towner, counsel for Infinity, submitted that Mr Lorigan's application for leave to appeal to the Court of Appeal did not operate as a stay of proceedings on this Court's decision: [s 214\(6\)](#) of the [Employment Relations Act 2000](#) (the Act).

³ *Lorigan v Infinity Automotive Ltd (No 4)* [2018] NZEmpC 89.

⁴ *Lorigan v Infinity Automotive Ltd*, above n 1.

⁵ *Lorigan v Infinity Automotive Ltd (No 3)*, above n 2.

⁶ *Lorigan v Infinity Automotive Ltd (No 4)*, above n 3.

Accordingly, this Court should not defer its consideration of Infinity's application for a compliance order.

[9] With regard to the application for compliance itself, Mr Towner submitted that Infinity was relying on [s 139](#) of the Act, which provides the Court with power to order compliance where any person has not complied with an order made by the Court.

[10] The purpose of a compliance order is to prevent further breaches; the applicant must show that further non-compliance is likely.⁷ An applicant must also provide evidence that it has been affected by the non-compliance giving rise to the proceedings, but does not have to go so far as to prove prejudice.⁸

[11] Mr Towner submitted that Mr Lorigan had not complied with the Court's costs order to date, and had on numerous previous occasions demonstrated disregard for the Court's orders and directions which had required him to take various steps in the proceeding over the past six months.

[12] He submitted that Infinity had been adversely affected by the continuous non-compliance; it had been inconvenienced and had incurred additional costs generally and in relation to the application in particular.

[13] Mr Lorigan filed a document in which he stated that he "rejects totally the orders made for costs". He went on to repeat allegations he had made on a number of previous occasions which have been rejected by the Court, contending that Infinity and persons associated with it had been involved in criminal activities. He went on to assert in detail that he believed there had been a "total miscarriage of Justice" and a "deliberate crime against justice that has tainted all proceedings to date".

Discussion

[14] I accept Mr Towner's submission that there is no operative order of stay of the costs orders.

⁷ *Fletcher Development and Construction Ltd v New Zealand Labourers etc IUOW* [1988] NZILR 114 (LC) at 120.

⁸ *Mills v Primary Producers Cooperative Society Ltd* [1989] 2 NZILR 460 (LC) at 446.

[15] The Court has considered Mr Lorigan's contentions as to alleged criminal conduct on several previous occasions, most recently in the judgment of 8 August 2018.⁹

[16] For the purposes of this judgment, I am concerned only with the enforcement of costs orders. Mr Lorigan states that he rejects those orders, but no step to challenge them legally has been taken.

[17] The content of Mr Lorigan's submission suggests that without the making of a compliance order, it is unlikely he will make the payment he has been directed to make. It is also the case that there have also been previous instances of failure to comply with procedural directions of the Court.

[18] I also accept the submission made for Infinity that the ongoing non-compliance has caused inconvenience and the incurring of further cost.

[19] I am accordingly satisfied that a compliance order should be made, which is set out below.

[20] I expressly draw to Mr Lorigan's attention the potential consequences of breaching a compliance order of the kind I am making in this judgment. The sanctions which may be imposed are set out in [s 140\(6\)](#) of the Act, as follows:

140 Further provisions relating to compliance order by court

...

(6) Where any person fails to comply with a compliance order made under [section 139](#), or where the court, on an application under [section 138\(6\)](#), is satisfied that any person has failed to comply with a compliance order made under [section 137](#), the court may do 1 or more of the following things:

...

(c) order that the person in default be sentenced to imprisonment for a term not exceeding 3 months:

(d) order that the person in default be fined a sum not exceeding

\$40,000:

(e) order that the property of the person in default be sequestered.

9 *Lorigan v Infinity Automotive Ltd (No 4)*, above n 3, at [4]-[28].

...

[21] The Court of Appeal analysed this section in *Peter Reynolds Mechanical Ltd t/a The Italian Job Service Centre v Denyer*, finding that its powers can be considered in a situation where there has been a failure to comply with an order to pay a monetary sum.¹⁰ It reviewed a number of cases where a fine was imposed for a continual failure to respect a compliance order to pay a sum of money.¹¹

[22] I also note that a judgment creditor has the ability to enforce an order for payment of money in the courts of general jurisdiction, whether by filing the relevant order in the District Court under [s 141](#) of the Act, or taking steps under the [Insolvency Act 2006](#).

[23] Once again, Mr Lorigan is strongly urged to obtain legal advice as to matters pertaining to these proceedings.

Disposition

[24] I order Mr Lorigan to comply by 23 November 2018 with the Court's judgment dated 11 September 2018 that the sum of \$14,495 for costs be paid by Mr Lorigan to Infinity.

[25] I also order that Mr Lorigan pay \$500 costs to Infinity in respect of its application for a compliance order.

B A Corkill Judge

Judgment signed at 3.30 pm on 12 November 2018

10. *Peter Reynolds Mechanical Ltd t/a The Italian Job Service Centre v Denyer* [\[2016\] NZCA 464](#), [\[2017\] 2 NZLR 451](#).

11 At [61]-[71].