

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

[2016] NZERA Wellington 67  
5618628

BETWEEN            INSURANCE COUNCIL OF NEW  
                              ZEALAND INCOPROPATED  
                              Applicant

AND                    SAMSON SAMASONI  
                              Respondent

Member of Authority:    M B Loftus

Representatives:        Nicholas Mereu, on behalf of the Applicant  
                              Nil for Respondent

Investigation Meeting:    13 June 2016 at Wellington

Submissions Received:    At the investigation meeting

Determination:            13 June 2016

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**ORAL DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1]    The applicant, the Insurance Council of New Zealand Incorporated (the Council), is seeking an order requiring the respondent, Samson Samasoni, pay monies it believes he owes.

[2]    While Mr Samasoni neither provided a Statement in Reply nor participated in a telephone conference held to discuss the investigation's conduct, there is correspondence from him to the Council which confirms he acknowledges the debt but is unable to pay it for various poorly explained reasons.

**Non-appearance of the Respondent**

[3]    Mr Samasoni was neither present nor represented at the investigation meeting.

[4] There is, however, no doubt he is aware of the investigation given an e-mail he sent the Authority acknowledging receipt of the Notice of Hearing. The notice includes advice that should the respondent fail to attend the Authority may proceed and issue a determination in favour of the applicant.

[5] I am therefore satisfied Mr Samasoni is aware of both the investigation meeting and the consequence of non-attendance. Despite that he has not attended. Nor has he given advice of, or explanation for, the absence. In the circumstances I consider it appropriate to continue.

### **Determination**

[6] Mr Samasoni was employed by the Council in early 2013 as a Communications Manager. Amidst other things he received a mobile phone and credit card for business use.

[7] During the second half of 2014 Mr Samasoni started using the credit card for personal expenses. At first there was some difficulty in identifying the expenditure due to the tardy way in which he reported it though he had, by the time he left, repaid \$600.00.

[8] Mr Samasoni resigned with effect 8 May 2015. In the couple of weeks prior to departure he charged \$1,716.84 of private expenditure to the Council's credit card.

[9] To that can be added some earlier debt and a further \$102.43 in calls made after departure from what had previously been Mr Samasoni's Council provided phone. This occurred as he had been allowed to keep the number but had not completed the process of changing the account name as he was required to do. The Council did not become aware of this for some weeks.

[10] The Council says Mr Samasoni owes a total of \$1,992.24.

[11] The Council soon entered into correspondence aimed at recovering the outstanding amount. Mr Samasoni immediately acknowledged the debt and on 15 May 2015 went so far as to provide a cheque for the then know amount of \$1,617.47. He did, however, advise the Council his personal situation was such the cheque would not be honoured. He asked he be allowed to *get back to you next week when it's* [the

money required to honour the cheque] *all in*. He did not do so and on 29 May the Council advised it was about to bank the cheque.

[12] That brought a request the Council hold till 16 June which it did. It was during this period the Council received Mr Samasoni's last Cardholder Statement and the last of his expenditure came to its notice.

[13] That led to further correspondence and, by way of response from Mr Samasoni, requests presentation of the cheque held by the Council be delayed. He attributed the situation to the fact his new employer's was yet to pay him.

[14] The Council's attempts to pursue the issue continued through July and August though Mr Samasoni appears to have become reluctant to reply. His responses, when they came, were the result of multiple approaches from the Council.

[15] On 19 October Mr Samasoni advised the Council he had sent a new cheque for the revised amount but asked it not be banked before 6 November as he was not to receive his next pay till 5 November.

[16] The Council did not receive the cheque and asked about it on 6 November. It also provided account details so Mr Samasoni could simply pay the amount directly. He promised to take this approach but failed to do so.

[17] On 14 December the Council wrote and advised payment had not yet been received. The e-mail went on to advise:

*As you know we are subject to a full financial audit and we have no way of keeping this debt quiet over year end. This debt needs to be in our bank by this Wednesday, 16 December otherwise it gets hung up in the balance sheet as a provision for doubtful debts and becomes a matter of record for the members.*

[18] There was no payment in December and despite subsequent promises Mr Samasoni would honour the debt he has failed to do so. Its exasperation led to the Council to initiate this application in late March, if only to register its interest as Mr Samasoni's correspondence indicates others are taking an interest in his affairs.

[19] As already said the Council now seeks formal recognition of the debt and an order it be paid.

[20] The correspondence, and particularly that from Mr Samasoni, leaves little doubt he owes the amount sought. There are supporting calculations, invoices and bank statements. Furthermore Mr Samasoni does not dispute the debt – indeed his correspondence regularly acknowledges it and makes various assertions about payment.

[21] There is, however, a question over whether or not the Authority has jurisdiction to consider this claim.

[22] I conclude the answer is yes. The Authority has exclusive jurisdiction to deal with employment relationship problems generally and this includes any action arising from or related to the employment relationship.<sup>1</sup>

[23] There can be little doubt this claim arises from the employment relationship. It was only by virtue of that Mr Samasoni was provided with the credit card and phone. These debts could not have arisen if it had not been for the employment relationship and both previous practice (the \$600) and Mr Samasoni's correspondence show the parties consider such expenditure should be reimbursed.

[24] Having considered the evidence I conclude the order sought should be made.

[25] Costs were not sought but in any event the Council was self-represented so recoverable costs would be minimal. There shall be no order in this respect.

### **Conclusion and orders**

[26] For the above reasons I order the respondent, Samson Samasoni, pay the applicant, the Insurance Council of New Zealand Incorporated, the sum of \$1,992.24 (one thousand, nine hundred and ninety two dollars and twenty four cents).

[27] Payment is to be made no later than 4.00pm Monday 11 July 2016.

M B Loftus  
Member of the Employment Relations Authority

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<sup>1</sup> Section 161(1)(r) of the Employment Relations Act 2000