

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 236/09
5141012

BETWEEN JATCOM PRINTING LTD
 Applicant

AND CATHERINE COX
 Respondent

Member of Authority: James Wilson

Representatives: Annie Sullivan, Director, for the applicant
 John Coyle for the respondent

Investigation Meeting: 14 July 2009 at Auckland

Determination: 16 July 2009

DETERMINATION OF THE AUTHORITY

Background

[1] On 28 October 2008 the Authority received an application from Jatcom Printing Ltd (Jatcom) seeking an order requiring Ms Cox to comply with a mediated settlement. On 11 November 2008 Mr Coyle responded on Ms Cox's behalf denying that Ms Cox had breached the settlement agreement.

[2] After they had unsuccessfully attempted mediation, I held a conference call with the parties on 22 April 2009. On that call the parties agreed to a timetable for the exchange of witness statements and a date (14 July 2009) for an investigation meeting. Ms Sullivan, for Jatcom, also agreed to file a copy of the settlement agreement as soon as possible.

[3] Shortly after this conference call the Authority support officer sent a minute to the parties setting out the agreed timetable and attaching a formal notice of the investigation meeting. The copy of this minute sent to Jatcom was returned by the courier company as undeliverable. However a further copy was emailed to Ms

Sullivan on 28 April 2009 and on 29 April, by return email, she acknowledged receipt. The notice of investigation meeting included the usual note to the parties that:

If the applicant does not attend the investigation meeting, the matter may be dismissed and costs may be awarded against the applicant.

[4] Despite being remind in writing of the agreed timetable, Jatcom have provided neither a copy of the settlement agreement nor witness statements in accordance with that timetable.

[5] On the day agreed for the Authority's investigation meeting the respondent, accompanied by Mr Coyle, were present at the appointed start time of 10.00 am. Neither Ms Sullivan nor any other representative of Jatcom were present. At 10.15 am I requested the support officer to attempt to make contact with Ms Sullivan. He attempted to phone her on both the numbers provided by her and received no response.

Determination

[6] Jatcom and Ms Sullivan have been given every reasonable opportunity to pursue their application. They have chosen not to do so and as a consequence have caused a goo deal of inconvenience and cost both to Ms Cox and the Authority. **Jatcom Printing Ltd's application is dismissed .**

Costs

[7] Ms Cox has indicated that she does not wish to pursue cost, as Ms Sullivan appears to have left New Zealand and has a number of outstanding creditors, making any award of costs almost impossible to recover. **There will be no order for costs.**

James Wilson
Member of the Employment Relations Authority