

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2021] NZERA 316
3141501

BETWEEN TONY KNIGHT
 Applicant

AND QUALITY COURIERS LIMITED
 Respondent

Member of Authority: Michael Loftus

Representatives: Applicant in Person
 Chris Lesage, for the Respondent

Investigation Meeting: By telephone conference on 30 June 2021 with further
 input permitted up to and including 22 July 2021

Date of Determination: 23 July 2021

DETERMINATION OF THE AUTHORITY

[1] The applicant, Tony Knight claims the respondent, Quality Couriers Limited (Quality), has breached a record of settlement entered into pursuant to s 149 of the Employment Relations Act 2000. In his statement of problem he sought a compliance order despite acknowledging that by the time he lodged the claim compliance had occurred. He also seeks a penalty.

[2] Quality states that not only has it complied, it did so on time.

[3] The parties attended mediation on 20 May 2021. That resulted in a settlement which required Quality pay a small amount of money to Mr Knight's bank account within 10 calendar days which, while the parties may not have realised it, was a Sunday (30 May 2021).

[4] Quality says it actioned the transfer on 30 May and provided a bank statement to support that claim.

[5] Mr Knight accepts the transfer was actioned on 30 May but states banks process such transactions overnight meaning he did not receive the money till Monday 31 May. He claims the fact he did not receive the payment on the due date means the settlement was breached.

[6] As I indicated to the parties this claim has no chance of success but Mr Knight still requires it be determined.

[7] I say it has no chance as the evidence with which Mr Knight agrees is that Quality actioned the payment on the due date. Quality cannot be held accountable for the systems of a third party intermediary and did that which was required of it within the specified timeframe.

[8] Even if that were not the case, there would still be no breach. Section 35(6) of the Interpretation Act 1999 states anything that *...must or may be done on a particular day or within a limited period of time may, if that day or the last day of that period is not a working day (and a Sunday is not), be done on the next working day.* In other words, Quality had till the Monday to comply and Mr Knight agrees that by then it had. A compliance order is not therefore required.

[9] For completeness and even if the overnight delay has somehow created a breach, the fact Quality acted within the required timeframe means the failure to get the money to Mr Knight on the Sunday would not have constituted the type of wanton failure that would attract a penalty.

[10] For these reasons I conclude Mr Knight's claim must fail.

[11] Both parties were self-represented and therefore recoverable costs are negligible. Costs will lie where they fall.

Michael Loftus
Member of the Employment Relations Authority