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Kumar v Future Print & Design Limited (Auckland) [2018] NZERA 114; [2018] NZERA Auckland 114 (9 April 2018)

Last Updated: 20 April 2018

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2018] NZERA Auckland 114
3025051

BETWEEN JANENDRA KUMAR First Applicant

AND FUTURE PRINT & DESIGN LIMITED

Respondent

Member of Authority: Eleanor Robinson

Investigation Meeting: 9 April 2018

Determination: 9 April 2018

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] On 21 November 2017 a Record of Settlement was signed under [s. 149](#) of the [Employment Relations Act 2000](#) (the Act). The parties to the Record of Settlement were the Applicant, Mr Janendra Kumar, and the Respondent, Future Print & Design Limited.

[2] The Record of Settlement was signed by the Applicant and Mr Dave Dutt, Principal, on behalf of Future Print & Design Limited. The Record of Settlement was also signed by a Mediator employed by the Ministry of Business, Innovation and Employment.

[3] The issue which had been brought before the Authority by the Applicant is that the Respondent has not complied fully with clauses 2 (b) & (c) of the Record of Settlement, which state:

2. That Future Print & Design Limited shall, without admission of liability, pay Janendra Kumar the sum of \$10,000.00 in terms of the provisions of [s 123\(1\)\(c\)](#) (i) of the [Employment Relations Act 2000](#). This amount to be paid by way of Direct Credit and in accordance with the following schedule.

a) A payment of \$2,000.00 within 7 days of the date thereof.

b) A further payment of \$2,000.00 on or before 20th February 2018;

c) A further payment of \$1,000.00 on or before 20th March 2018;

d) A further payment of \$1,000.00 on or before 20th April 2018; e) A further payment of \$1,500.00 on or before 20th May 2018; f) A further payment of \$1,250.00 on or before 20th June 2018; g) A final payment of \$1,250.00 on or before 20th July 2018.

[4] Settlement was certified under [s 149](#) of the Act by the Mediator. That certification confirmed that before making the agreement, the parties were advised and accepted they understood the agreed terms:

(a) were final, binding and enforceable; and

(b) could not be cancelled; and

(c) could not be brought before the Authority or the court for review or appeal, except for the purposes of enforcing those terms.

[5] Mr Kumar said that he had received the first tranche of payment of \$2,000.00 due under the Record of Settlement, albeit that it was paid as two separate payments rather than the one payment which had been agreed.

[6] Of the payments due to be paid on 20th of February and 20th of March 2018 totalling

\$3,000.00, he has been paid \$600.00 only, leaving the sum of \$2,400.00 outstanding.

[7] The further payments remain payable but are not outstanding as at the date of this determination.

Compliance Order

[8] I am satisfied that the Respondent has not complied fully with terms 2 (b) and (c) of the Record of Settlement, and that the amount of \$2,400.00 is outstanding and payable to Mr Kumar.

[9] I determine that the Respondent has failed to comply with clauses 2 (b) and (c) of the

Record of Settlement.

[10] In order to effect compliance with clauses 2 (b) and (c) of the Record of Settlement, I therefore order Future Print & Design Limited to pay Mr Kumar, no later than 7 working days from the date of this determination, the outstanding amount due under clauses 2 (b) and (c) of the Record of Settlement, this being \$2,400.00.

Filing Fee

[11] Future Print & Design Limited is also ordered to pay Mr Kumar, no later than 7 working days from the date of this determination, the filing fee of \$71.56.

Further Action

[12] Mr Kumar is advised that, in the event the further amounts due under the Record of Settlement are not paid at the dates specified, he may return to the Authority for further compliance.

Costs

[13] While costs are reserved, I note here that, subject to his submissions, Mr Kumar was not legally represented and, unless he incurred legal costs, it is therefore unlikely he will have grounds to claim a contribution to any fair and reasonable costs.

Eleanor Robinson

Member of the Employment Relations Authority

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