

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2016] NZERA Auckland 239
5602450

BETWEEN ASHIS KUMAR
Applicant

AND LAVISH CATERING
SERVICES LIMITED
Respondent

Member of Authority: Andrew Dallas

Representatives: Applicant in person
No appearance for the Respondent

Investigation Meeting: On the papers

Determination: 13 July 2016

DETERMINATION OF THE AUTHORITY

- A. Lavish Catering Services Limited (Lavish) must comply with the Record of Settlement dated 20 July 2015 by paying Ashis Kumar \$952.00 on or before 12 August 2016.**
- B. Lavish must also pay Mr Kumar \$71.56 as reimbursement of the Authority's filing fee on or before 12 August 2016**

Employment relationship problem

[1] The parties entered into a Record of Settlement on 20 July 2015 which was signed by a mediator in accordance with the requirements of s 149 of the Employment Relations Act 2000 (the Act). Ashis Kumar and Lavish Catering Services Limited (Lavish) Director, Ranita Hanson signed the Record of Settlement.

[2] Under the terms of the Record of Settlement, Lavish was to pay Mr Kumar:

Lavish Catering Services Limited shall pay Ashis Kumar 5 weeks annual leave and 2 weeks wages based on a 40 hour week. Such amounts will be paid to the Applicant by way of direct credit in instalment of \$100 per week until the amounts are paid in full, with the first instalment failing due 7 days from the date of this agreement.

[3] The total amount payable to Mr Kumar was \$3752.00. Lavish made payments to Mr Kumar for 28 weeks equalling \$2800.00. Mr Kumar sought an order for payment of the shortfall. Lavish still owes Mr Kumar \$952.00.

[4] Lavish did not file a Statement in Reply to Mr Kumar's Statement of Problem dated 6 January 2016. Neither Ms Hanson nor an authorised representative of Lavish attended a scheduled telephone conference with the Authority on 11 July 2016. Ms Hanson has not subsequently made contact with the Authority despite being asked to do so.

[5] The Record of Settlement is a final, binding and enforceable document. For mediated outcomes to be successful, parties need to have confidence that records of settlement will be complied with. There is a significant public interest in this. It is appropriate to make a compliance order in the circumstance of this case.

[6] Failure by Lavish to comply with the compliance order may result in Mr Kumar applying to the Employment Court to exercise its powers under s 140(6) of the Act. Remedies can include an order that the person in default be sentenced to imprisonment for a term not exceeding three months and/or a fine not exceeding \$40,000.

Costs

[7] Mr Kumar sought reimbursement of the Authority's filing fee of \$71.56. This is fair and reasonable in all the circumstances. Lavish must pay this amount to Mr Kumar on or before 12 August 2016.

Andrew Dallas
Member of the Employment Relations Authority