

Issues

[3] Should a compliance order be made?

The facts

[4] The parties agreed that Tararua Brewing Limited would pay Mr McLean a total of \$11,305.10 payments on an instalment plan. Two payments were due on 9 January 2009. They were not paid. One of these was subject to a compliance order on 22 December 2008: see Determination of the Authority P R Stapp WA 173/08. One payment to reduce the total was made on 19 December 2008 that has been taken into account. Also ,the following instalments under the plan have not been made:

- 16 January 2009 \$1,500
- 23 January 2009 \$1,500
- 30 January 2009 \$1,500
- 6 February 2009 \$1,500
- 13 February 2009 \$805.10.

[5] The total remaining outstanding is \$9,805.10.

[6] I am satisfied that Mr McLean has tried to get the payment from the company without any success.

[7] Also, Mr McLean has told me that he knows the bailiffs have taken possession of some assets. He told me that he has been informed that there is another claim on the property making it uncertain that the property can be used to realise any money to recover the total sum owed.

Determination

[8] This is a disquieting and disturbing situation where Mr McLean has not been paid by the company and without any reply from the company. He had a reasonable expectation that a settlement entered into, presumably by the respondent honourably, would be paid.

[9] I have no hesitation to make a compliance order on the total as requested.

Orders of the Authority

[10] I order Tararua Brewing Limited to pay Mr Michael McLean the total sum of \$9,805.10 no later than 4pm on Thursday 9 April 2009.

[11] I also wish to point out to the respondent that the applicant can apply to the Employment Court for the exercise of its powers under section 140 (6) of the Act where this order is not obeyed that include the following things:

- Imprisonment
- A fine
- Sequestration of property.

[12] The applicant alternatively can file the order in any District Court for enforcement in the same manner as an order made or given by the District Court; section 141 of the Act applied.

[13] I reserve leave for any variation to this order under s 138 of the Act.

P R Stapp
Member of the Employment Relations Authority