

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 370/09
5271973

BETWEEN REBECCA MOFFATT
 Applicant

AND TERRY MORRIS
 Respondent

Member of Authority: R A Monaghan

Representatives: R Moffatt in person
 No appearance by respondent

Investigation Meeting: 20 October 2009

Determination: 20 October 2009

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Rebecca Moffatt seeks an order under s 151 and 137 of the Employment Relations Act 2000 that Terry Morris comply with the terms of a settlement recorded under s 149 of the Act.

Preliminary matters

[2] No statement in reply was filed, Mr Morris did not appear and was not represented, and has not otherwise contacted the Authority.

[3] I am satisfied Mr Morris has received a copy of the statement of problem and the notice of investigation meeting. Since he has not provided good cause for the failure to attend or be represented I have proceeded under clause 12 Schedule 2 of the

Employment Relations Act to act as fully in the matter as if the party had duly attended or been represented.

The terms of settlement

[4] Although the record of settlement contained a provision regarding confidentiality, it is necessary for the purposes of this determination to refer in detail to certain provisions. Relevant terms provided:

- “1. Terry Morris will pay Rebecca Moffatt wages and holiday pay totalling \$917.66 net of PAYE, ACC earners’ premium and any other taxes owing.
2. Payment of the sum specified above shall be made as follows:
 - a. Rebecca Moffatt will be paid:
 - i. 18 instalments of \$50 each, followed by
 - ii. 1 final instalment of \$17.66.
 - b. The first instalment will be paid on or before 2 July 2009.
 - c. Further instalments will be paid at weekly intervals after that date, with the final instalment of \$17.66 to be paid on or before 4 November 2009.
3. Payment will be made by direct credit.”

[5] The parties signed the record of settlement on 18 and 23 June 2009 respectively. The mediator signed the record of settlement, and accompanying certification of the matters required under s 149, on 1 July 2009.

[6] As at the date of the investigation meeting Mr Morris had not made any payments. He was in default in respect of all but the final one or two instalments of \$50 and the final instalment of \$17.

[7] Ms Moffatt seeks an order for payment for the agreed sum in full.

Order for compliance

[8] In the circumstances it is appropriate to make an order for the payment of the agreed sum in full.

[9] Mr Morris is therefore ordered to comply with the terms of the mediated settlement by paying to Ms Moffatt wages and holiday pay totalling \$917.66 net of PAYE, ACC earners' premium and any other taxes owing.

[10] Payment is to be made within 5 working days of the date of this determination.

Interest

[11] Interest is to be paid on the above sum at the rate of 4.8% calculated from 1 July 2009 to the date of payment.

Costs

[12] Mr Morris is further ordered to pay costs of \$70 in respect of the Authority's filing fee.

R A Monaghan

Member of the Employment Relations Authority