

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 319
5421503

BETWEEN

RIVER TANE MUNRO
Applicant

A N D

GILL & GUNDRY
CONCRETE
CONSTRUCTION LIMITED
Respondent

Member of Authority: James Crichton

Representatives: Victoria Brown, for Applicant
Simon Gundry, for Respondent

Investigation Meeting: On the papers

Date of Determination: 26 July 2013

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant (Mr Munro) seeks a compliance order with a mediated settlement reached between the parties on 1 May 2013.

[2] The nature of the dispute is straightforward; there was an employment relationship problem between (Mr Munro) and the respondent (GGCC) which was resolved in the mediated settlement in part by the payment of the settlement sum from GGCC to Mr Munro. Payment was made by GGCC to Mr Munro but unfortunately the bank account details provided by Mr Munro were incorrect and the settlement proceeds were returned to GGCC.

[3] The Authority is satisfied that:

- (a) The payment was made in accordance with the arrangements made in mediation;
- (b) Mr Munro was unaware, when he provided his bank account details, that his bank had closed the account in question;
- (c) When the settlement proceeds were received by the bank, the bank promptly returned them to GGCC.

[4] The short point is that, as a consequence of this unfortunate chain of events, notwithstanding the best intentions of Mr Munro and the bona fides of GGCC in paying the money at first instance, the position remains that Mr Munro has yet to receive the settlement proceeds which are now back in the account of GGCC.

Determination

[5] The matter is very clear. GGCC, despite its prompt initial payment, has no right to retain the settlement proceeds which on the evidence before the Authority is precisely what has happened. Conversely, Mr Munro is entitled to receipt of those moneys and he has yet to receive the settlement.

[6] To avoid any further confusion, GGCC is to pay the settlement proceeds of \$1450 by cheque made out in favour of River Tane Munro, such cheque to be delivered or posted to the Auckland office of the Employment Relations Authority within 14 days of the date of this determination. The Authority will ensure that the proceeds are paid to Mr Munro.

[7] On receipt of those moneys, as directed in this determination of the Authority, the matter is at an end.

[8] To facilitate compliance with this order, the support officer in forwarding the determination to GGCC is to provide a stamped, self-addressed envelope with the determination so that the respondent employer can use that envelope to send its settlement cheque directly back to the Authority to conclude matters.

James Crichton
Member of the Employment Relations Authority