

**NOTE: This determination contains an order prohibiting publication of certain information**

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2023] NZERA 579  
3239279

BETWEEN

OJI  
Applicant

AND

MURRAY BOYD  
Respondent

Member of Authority: Helen Doyle

Representatives: Ashleigh Fechney, advocate for the Applicant  
Murray Boyd in person

Investigation Meeting: 2 October 2023 by audio visual

Date of Determination: 5 October 2023

---

**DETERMINATION OF THE AUTHORITY**

---

**Non-publication**

[1] The permanent non-publication order for the applicant's name, medical information and identifying details made in the substantive determination of the Authority dated 22 March 2023 continues for this application.<sup>1</sup>

---

<sup>1</sup> *OJI v Murray Boyd* [2023] NZERA 144.

**Employment relationship problem**

[2] OJI seeks an order that the Murray Boyd comply with the orders made in an Authority determination dated 22 March 2023.<sup>2</sup>

[3] The Authority ordered Murray Boyd to make the following payments:

- (a) Reimbursement of lost wages in the sum of \$9,476 gross; and
- (b) Compensation of \$35,000.

[4] Mr Boyd was ordered to make the payments within 28 days from the date of the determination of 22 March 2023. Payment was required by 19 April 2023.<sup>3</sup>

[5] On 16 May 2023 Mr Boyd lodged an application for re-opening in the Authority which he had signed and dated 19 April 2023. On 23 June 2023 the Authority declined to grant Mr Boyd's application for re-opening.<sup>4</sup>

[6] OJI seeks an order that Mr Boyd comply with the determination together with interest, costs, and reimbursement of the filing fee in the amount of \$71.55.

[7] Mr Boyd in his statement in reply attempted to relitigate the matters that had been the subject of the substantive determination. Amongst other matters he says that OJI owes him money. As noted in the determination of the re-opening application there was no claim for damages before the Authority at the time of the substantive investigation.<sup>5</sup>

[8] After the statement in reply was lodged Mr Boyd was represented by counsel who attended at a case management conference with the Authority on 16 August 2023. Counsel then sought leave to withdraw on 12 September 2023 and the Authority granted leave.

[9] The Authority advised the parties at the commencement of the investigation meeting that the application was one of compliance with a substantive determination.

---

<sup>2</sup> Above n1.

<sup>3</sup> Above n1 at [80].

<sup>4</sup> *Murray Alexander Boyd v OJI* [2023] NZERA 332.

<sup>5</sup> Above n 4 at [39].

**Investigation meeting**

[10] The application for compliance was set down for an investigation meeting by audio visual on 2 October 2023. OJI and Mr Boyd attended the investigation meeting on 2 October 2023.

[11] The Authority heard evidence from OJI and Mr Boyd. OJI was excused after giving her evidence. There had been an earlier concern raised by Ms Fechney that she would be caused further stress by Mr Boyd's evidence.

[12] The Authority needs to determine the following issues:

- (a) Has Mr Boyd paid the amounts ordered to be paid to OJI in the 22 March 2023 determination?
- (b) If there are still amounts outstanding should the Authority order compliance with the determination?
- (c) Should the Authority award interest on any amounts outstanding?
- (d) Should there be an award of costs and reimbursement of the filing fee in respect of this application.

**Has Mr Boyd paid the amounts ordered to be paid to OJI in the 22 March 2023 determination?**

[13] OJI and Mr Boyd confirmed in their evidence that the amount of \$10,000 had been paid toward the amounts ordered payable in the 22 March 2023 determination. This payment took place on 11 September 2023.

[14] Mr Boyd said that he paid that amount under duress. I conclude it likely having listened to his evidence that there had been a conversation or correspondence with him about the power of the Court in s 140(6) of the Act in the event there was failure to comply with a compliance order under s 137 and an application was made to the Court as a result.

[15] There has been a partial payment toward the amounts ordered payable of \$10,000. There is a balance due and owing of \$34,476.

**If there are still amounts outstanding should the Authority order compliance with the determination?**

[16] Mr Boyd said in his evidence that he would not be paying anything further towards the amounts owed. The Authority asked Mr Boyd about his financial situation however he limited his response to a statement that OJI owes him money and depending on the outcome of this application he may take that matter further.

[17] The Authority is not able to be satisfied from the evidence that if it does not make a compliance order there would be payment of the balance owing to OJI of \$34,476. There was no evidence before the Authority about Mr Boyd's financial situation.

[18] In those circumstances it is appropriate that the Authority exercise its power under s 137 of the Act and order compliance with the orders made in the Authority determination of 22 March 2023.

[19] Murray Boyd is ordered to comply with paragraph 80 of the Authority determination and pay to OJI the amount owing of \$34,476 within 20 days of the date of this determination.

**Should the Authority award interest on any amounts outstanding?**

[20] The Authority has a discretion to award interest under clause 11 of the second schedule to the Act. If awarded interest is to be calculated in accordance with schedule 2 of the Interest on Money Claims Act 2016.

[21] OJI has been without money ordered to be paid to her. It is appropriate that the Authority order payment of interest. I order interest payable on the full amount of \$44,476 from the date the application for reopening was declined in the determination dated 23 June 2023 until 11 September 2023 and thereafter interest on the amount of \$34,476 from 11 September 2023 until the date of this determination. I have used the Ministry of Justice civil debt interest calculator to calculate the interest amount.

[22] Murray Boyd is ordered to pay interest of \$635.34 calculated on \$44,476 between 23 June and 11 September 2023 and thereafter on \$34,476 until the date of this determination.

**Costs**

[23] OJI is entitled to an assessment of costs. It is appropriate to start with one quarter of the daily tariff of \$4,500 which is \$1,125. The investigation meeting was less than half an hour in duration. I reduce the tariff further to reflect that and the nature of the application to \$700 together with reimbursement of the filing fee of \$71.55.

[24] Murray Boyd is ordered to pay OJI costs in the sum of \$700 together with reimbursement of the filing fee of \$71.55.

**Summary of orders**

- (a) Murray Boyd is ordered to comply with orders made in the Authority determination and pay to OJI the sum of \$34,476 within 20 days of the date of this determination.
- (b) Murray Boyd is ordered to pay interest on the money payable in the combined sum of \$635.34.
- (c) Murray Boyd is ordered to pay costs in the sum of \$700 and reimburse the filing fee of \$71.55.

Helen Doyle  
Member of the Employment Relations Authority