

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 480
5515723

BETWEEN

HAPE PEPENE
Applicant

A N D

BUTTERFISH BAY
HOLDINGS LIMITED
Respondent

Member of Authority: Rachel Larmer
Representatives: Applicant in person
No appearance for Respondent
Investigation Meeting: 21 November 2014 by telephone
Date of Determination: 21 November 2014

DETERMINATION OF THE AUTHORITY

- A. Within 28 days of the date of this determination Butterfish Bay Holdings Limited (Butterfish Bay) is ordered to comply with paragraph 2 of the Record of Settlement dated 13 May 2014.**
- B. Butterfish Bay is ordered to reimburse Mr Pepene \$71.56 for his filing fee.**

No Statement in Reply

[1] Butterfish Bay was served at its registered address for service with Mr Pepene's Statement of Problem on 09 September 2014 and with the Authority's Notice of Hearing advising of the telephone conference Investigation Meeting on 12 November 2014.

[2] Butterfish Bay has not filed a Statement of Reply. Nor has not sought leave to file a Statement in Reply out of time despite being advised by the Authority that it was required to do so.

[3] Butterfish Bay did not attend the investigation meeting today.

Employment relationship problem

[4] The parties entered into a Record of Settlement which was also signed under section 149 of the Employment Relations Act 2000 by a mediator from the Ministry of Business Innovation and Employment on 13 May 2014.

[5] The amount that Butterfish Bay agreed to pay by 20 June 2014 in accordance with clause 2 of the Record of Settlement has not been paid. Despite attempts by Mr Pepene to obtain payment Butterfish Bay has not paid him anything. Mr Pepene has complied with his obligations under the Record of Settlement.

[6] I am satisfied that in the absence of a compliance order Butterfish Bay is unlikely to pay Mr Pepene what he is owed. Accordingly it is appropriate to issue a compliance order against Butterfish Bay.

Costs

[7] Mr Pepene was not legally represented so there is no issue as to costs. He is entitled to be reimbursed for his filing fee.

Orders

[8] Butterfish Bay is ordered within 28 days of the date of this determination to comply with clause 2 of the Record of Settlement by paying the full amount Mr Pepene is owed under that clause. It is also ordered to reimburse Mr Pepene \$71.56 for his filing fee.

Rachel Larmer
Member of the Employment Relations Authority