

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

[2019] NZERA 416
3056106

BETWEEN

DEEPAK RATHOD
Applicant

AND

NUTRA FOODS 2011 LIMITED
Respondent

Member of Authority: Rachel Larmer

Representatives: Applicant in Person
No appearance by Respondent

Investigation Meeting: On the papers

Date of Determination: 15 July 2019

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The Authority in its substantive determination dated 16 May 2019 ordered Nutra Foods (2011) Limited (Nutra Foods) to pay Mr Rathod \$3,267.96 within 28 days of the date of that determination.¹

[2] No payment has been made. Mr Rathod now seeks a compliance order in his favour.

¹ [2019] NZERA Auckland 289.

No Statement in Reply

[3] Mr Rathod's Statement of Problem was served on Nutra Foods at its registered office, by track and trace courier, on 21 June 2019. No Statement in reply has been filed. No application for leave to file a Statement in Reply out of time has been filed.

[4] Nutra Foods has not engaged with the Authority about this matter at all.

[5] The Authority explained the effect of Nutra Food's non-engagement with the Authority's process to its director Mr Terry Le Suer at the substantive investigation meeting that was held on 14 May 2019.

[6] Nutra Foods therefore knew what was required of it if it had wanted to defend Mr Rathod's application for a compliance order, but has obviously elected to take no steps to do so.

[7] This compliance order application has therefore been dealt with 'on the papers' based on the information that has been made available to the Authority, which was also copied to Nutra Foods.

Outcome

[8] The Authority was satisfied that Nutra Foods:

- (a) Has not paid any of the money it was ordered to pay Mr Rathod. Nor has it challenged that determination;
- (b) Is unlikely to pay Mr Rathod the money it owes him unless a compliance was issued.

[9] It is therefore necessary and appropriate for the Authority to exercise its discretion under s 137(1)(b) of the Employment Relations Act 2000 (the Act) to issue the compliance order that has been sought.

Orders

[10] Nutra Foods is ordered to comply with paragraph [47] of the Authority's substantive determination dated 16 May 2019, by paying Mr Rathod \$3,267.96 within 28 days of the date of this determination.²

[11] Nutra Foods is also ordered to reimburse Mr Rathod \$71.56 for his filing fee for this application.

[12] Accordingly, Nutra Foods is ordered to pay Mr Rathod a total of \$3,339.52 within 28 days of the date of this determination.

[13] Failure by Nutra Foods to comply with this compliance order may result in the Employment Court exercising its discretion to impose one or more of the potential sanctions set out in s 140(4) of the Act, which include imprisonment, the imposition of a maximum fine of \$40,000 and/or sequestering property.

Rachel Larmer
Member of the Employment Relations Authority

² Above n1.