

Determination Number: WA 157/05

File Number: WEA 267/05

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN	Recon Professional Services Limited (applicant)
AND	Christopher Michael Andrews (respondent)
REPRESENTATIVES	Karin Andersen for the applicant No appearance by or for the respondent
MEMBER OF THE AUTHORITY	Denis Asher
INVESTIGATION	Wellington, 6 October 2005
DATE OF DETERMINATION	6 October 2005

DETERMINATION OF AUTHORITY

Employment Relationship Problem

1. The Company says Mr Andrews has not complied with the Authority's determination in favour of the applicant dated 16 May 2005 (intituling as above, WA 77/05) – statement of problem received on 12 July 2005.

2. No statement in reply has been received from Mr Andrews. Efforts by the Authority to contact Mr Andrews in respect of the same and a mutually convenient date for an investigation were unsuccessful.
3. The parties have not undertaken mediation in respect of this matter. Given Mr Andrews well established failure to co-operate in the proceedings I am satisfied no value lies in directing the parties to mediation: s. 159 of the Act applied.
4. Following a discussion with the Company's then representative, Mr Blair Malcolm, and with its agreement, I set the matter down for an investigation: 160 & 173 of the Act applied.
5. Notice of the investigation was served on Mr Andrews on 17 August 2005 – refer to the affidavit to that effect sworn by John Phillip Player on behalf of the Company.
6. That Mr Andrews knew of the investigation was confirmed when he telephoned the Wellington office of the Authority and spoke to a support officer about it on Wednesday 5 October 2005 – refer to the record on file.
7. An email was then received from Mr Andrews on 6 October shortly before the commencement of the investigation. It acknowledged the impending investigation. It also advised, amongst other things, that he disputes the amount the Company seeks to recover from him. At my request an answer was immediately forwarded to Mr Andrews' email address: it addressed several matters and included the advice that the investigation would be proceeding as advised.
8. Copies of Mr Andrews' communication and my reply were provided to the Company's representative, Ms Andersen.

Discussion

9. In my substantive determination I found in favour of the Company's claims and directed Mr Andrews to pay to the applicant the total damages sum of \$70,072.59.

10. That sum remains unpaid – refer to the Company's statement of problem and Mr Andrews' communications.
11. While Mr Andrews' communications appear to accept responsibility for some of damages owed to the Company while disputing the balance, they offer no detailed defence to the claim for a compliance order.
12. In all the circumstances I am satisfied that a compliance order is appropriate.

Determination

13. I therefore order the respondent, Christopher Michael Andrews, to pay to the applicant, Recon Professional Services Limited, the sum of \$70,072.59 (seventy thousand and seventy two dollars and fifty nine cents).
14. I draw to Mr Andrews' attention that failure to comply with this compliance order may result in the Company applying to the Employment Court for the exercise of its powers under s. 140(6) of the Act, which includes fines, sequestration of property and imprisonment.

Denis Asher
Member of Employment Relations Authority