

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 418
5465137

BETWEEN

BEN SHEPHERD
Applicant

A N D

LOGISTICS & TRANSPORT
RECRUITMENT LIMITED
Respondent

Member of Authority: T G Tetitaha

Representatives: Applicant in person
R Upton, representative for Respondent

Investigation meeting: On the papers

Submissions received: 8 September from Applicant
8 September from Respondent

Date of Determination: 10 October 2014

DETERMINATION OF THE AUTHORITY

- A. Mr Shepherd has failed to show he has claims which are capable of being determined in this jurisdiction. Therefore his application is dismissed.**
- B. No costs are awarded as both parties were self-represented.**

Employment relationship problem

[1] The applicant, Benjamin Shepherd, filed a statement of problem seeking “*non payment of my ACC*”. The respondent filed a reply stating they had investigated the complaint and paid Mr Shepherd \$624.30 less PAYE on 23 June 2014 to cover his first week’s accident compensation.

[2] The matter was referred to mediation on 20 December 2013 but was not resolved. It was subsequently set down for a teleconference before me on 28 August 2014 at 9am. The applicant failed to attend the teleconference.

[3] I issued a Minute dated 3 September 2014 seeking clarity around Mr Shepherd's application. I informed Mr Shepherd the Authority does not enforce "ACC orders". Any problems around ACC entitlements should be referred to the Accident Compensation Corporation (ACC) and are generally dealt with under the Accident Compensation Act 2001. It was not a matter I could investigate under the Employment Relations Act 2000.

[4] Mr Shepherd was directed to file by **10 September 2014** a statement of problem confirming he has received the \$624.30 less PAYE from the respondent and what (if any) employment claims he now seeks the Authority to investigate. He was warned that if no amended statement of problem was filed, the application would be dismissed.

[5] No amended statement of problem was received. On 8 September 2014, the applicant sent an email stating:

... my claim was for 640 dollars in hand plus 74 dollars for the era the acc order is for 650 dollars after tax 724 before tax i am also really concerned that the working conditions that lead to the accident have not changed and my accident was never investigated carrolls cartage report in march said they have had 1783 days without a incident or accident when i was hospitalised in jan for 2 days and had to work when i could not walk properly or stand up straight and had a ruptured spleen and kidney and two broken ribs i was given 3 month medical from doctor but i had my acc withheld to force me to work so i could pay rent it is disgusting the way i have been treated.

[6] I have some sympathy for Mr Shepherd, but he must understand I cannot do more than what the Employment Relations Act 2000 and any other applicable legislation allows me to do. It is clear Mr Shepherd has complaints about the way he was treated by ACC. However, he does not point to any disadvantage caused by the respondent. The delays in payment appear to have been caused by ACC as opposed to the respondent. When the respondent found out it owed money to the applicant it paid. The allegedly defective investigation report about the respondent's work practice was compiled by "Carroll's Cartage" not the respondent.

[7] In short I cannot enforce ACC orders nor can I make orders against ACC. Mr Shepherd has failed to file an amended statement of problem identifying orders that can be made by me.

[8] Mr Shepherd has failed to show he has claims which are capable of being determined in this jurisdiction. Therefore his application is dismissed.

[9] No costs are awarded as both parties were self-represented.

T G Tetitaha
Member of the Employment Relations Authority