

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2025] NZERA 26
3350180

BETWEEN YADWINDER SINGH
Applicant

AND BIMLESH CHAND
Respondent

Member of Authority: Robin Arthur

Representatives: Joseph Plunket, counsel for the Applicant
Rajendra Chaudhry, counsel for the Respondent

Investigation: By telephone conference on 20 January 2025

Determination: 20 January 2025

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Yadwinder Singh applied for orders requiring Bimlesh Chand to comply with the terms of a settlement agreement made and certified under s 149 of the Employment Relations Act 2000 on 13 November 2023. Mr Singh also sought a penalty against Mr Chand for failure to pay sums due to him under the terms of that agreement.

[2] The agreement said NKA Services Limited and its director, Mr Chand, were jointly and severally liable for paying \$13,000 owed to Mr Singh as salary and holiday pay. Those arrears were to be paid in \$1,000 instalments from 31 December 2023 until 31 December 2024.

[3] Mr Chand remained solely liable for those amounts after the company went into liquidation on 7 March 2024.

[4] By determination issued on 3 July 2024, about an earlier compliance application, the Authority ordered Mr Chand to pay instalments that were due but paid

in the first half of 2024, a penalty of \$500 for breaching the agreement, and costs and expenses of \$571.55.¹

[5] In the current application Mr Singh sought a further compliance order relating to instalments due to him but not paid in the period from July to December 2024. He also sought a further penalty for the failure to pay those instalments.

[6] Mr Chand had not paid any of the amounts he was ordered to pay in the Authority's earlier determination.

The Authority's investigation

[7] The options for addressing Mr Singh's application were discussed by telephone conference with counsel, with Mr Chand attending with his counsel.

[8] Discussion in the conference canvassed the options for Mr Singh to pursue Mr Chand in relation to his failure to make payments ordered by the Authority's earlier compliance order. Those options include applying to the Employment Court for further orders, which may include a fine, sequestration of property and imprisonment.² Another is applying for enforcement through the District Court, with prospective use of the powers of the court's bailiffs to recover assets to meet debts.³

[9] Mr Singh had sought a further compliance order relating to amounts due but not paid in the second half of 2024 so, if such a further order was then not complied with, he could seek orders in the Employment Court or the District Court for all amounts due to him, not just those specifically referred to in the compliance order made in the Authority's 3 July 2024 determination.

[10] Mr Chand, through counsel, advised that he presently lacked the resources to meet his commitments under the settlement agreement.

[11] Following discussion with counsel, agreement was reached to resolve this matter on the basis of orders set out in the remainder of this determination.

¹ *Singh v Chand* [2024] NZERA 398.

² Employment Relations Act 2000, s 138(6) and s 140(6).

³ Section 141.

Orders

[12] By consent, and by order of the Authority, Mr Chand must, by no later than 18 February 2025:

- (i) Comply with the terms of the settlement agreement certified on 13 November 2023 by paying to Mr Singh the outstanding sum of \$11,692 remaining due under that agreement;
- (ii) Comply with the Authority's determination of 3 July 2024 by paying Mr Singh \$571.55 as costs and expenses, in respect of his earlier compliance application; and
- (iii) Pay Mr Singh a further \$571.55 as costs and expenses in respect of the present application.

[13] By consent and by order of the Authority Mr Singh's application for a further penalty against Mr Chand for failure to pay instalments due in the period from July to December 2024 is suspended. This aspect of his application is suspended as it would have otherwise caused further delay while evidence was gathered regarding factors relevant to imposing a penalty, including about Mr Chand's financial circumstances. Taking that approach enables Mr Singh to, if necessary, now more speedily pursue the enforcement options available through the courts should Mr Chand not observe the compliance order within the time frame required by this determination. The courts, in their processes, have means to assess matters of financial capacity.

[14] The requirement to pay the penalty imposed in the Authority's 3 July 2024 determination is not altered by the additional orders made in this determination.

Robin Arthur
Member of the Employment Relations Authority