

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 388A/10
5311630

BETWEEN TELECOM NEW ZEALAND
LIMITED
Applicant

AND PAUL EVANS-MCLEOD
Respondent

Member of Authority: Vicki Campbell

Investigation: On the Papers

Submissions received: 27 and 30 September 2010 from Respondent

Determination: 22 October 2010

DETERMINATION OF THE AUTHORITY

[1] On 26 August 2010 I issued a determination¹ the result of which was to send the parties to mediation to resolve the issue as to how and when the Authority's decision as to costs would be met by the respondent. I gave leave to the parties to return to the Authority in the event that mediation was unsuccessful.

[2] On 22 September Telecom New Zealand Limited ("Telecom") advised the Authority that mediation had not been successful and requested the Authority to finalise the compliance order as to payment of costs². Mr Evans-McLeod was invited to make submissions on the issue. I have found Mr Evans-McLeod's comments to be unhelpful in assisting the Authority to resolve the matter of the compliance with the Authority's determination.

[3] Telecom was awarded costs in the sum of \$1500 plus disbursements of \$401.48. The full payment of the costs award has not been paid by Mr Evans-

¹ AA 388/10.

² As determined in AA 187A/10 dated 1 June 2010.

McLeod who has, instead, been paying Telecom incremental amounts each week up to \$10.00 per week.

[4] I repeat here the comments I made in my previous determination which is that parties who take claims to the Authority or the Court do so with the risk that if they are not successful there may be financial consequences in that the unsuccessful party may have to contribute to the costs of the successful party.

[5] Mr Evans-McLeod says the Authority has no jurisdiction in this matter as he has now entered into a contract with Telecom which has been accepted through performance, to pay by way of incremental payments. That submission flies in the face of the facts which show that Telecom have continually sought payment of the costs amount in full.

[6] In coming to my conclusions in this matter I have taken into account the fact that continuing defiance of the Authority's orders places Mr Evans-McLeod at peril of serious consequences. The Authority's orders may be the subject of a further application for compliance in the Employment Court which is empowered to impose penalties for continuing non-compliance which include imprisonment, fines and the sequestration of property.

I order Mr Evans-McLeod to comply with the Authority's Determination numbered AA 187A/10 dated 1 June 2010, and to do so by 26 November 2010.

Costs

[7] Costs relating to this application shall lie where they fall.

Vicki Campbell
Member of Employment Relations Authority