

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2017] NZERA Christchurch 51
3002535

BETWEEN ANDREW TRUMAN
 Applicant

AND THE ZOOM GROUP LIMITED
 Respondent

Member of Authority: Andrew Dallas

Representatives: Applicant in person
 No appearance for the Respondent

Investigation Meeting: On the papers

Determination: 6 April 2017

DETERMINATION OF THE AUTHORITY

- A. The Zoom Group Limited (Zoom) must comply with the Record of Settlement dated 26 July 2016 by paying Andrew Truman on or before 7 May 2016, \$5,097.07 gross, as unpaid holiday pay; and**
- B. Zoom must also pay Mr Truman \$71.56 as reimbursement of the Authority's filing fee on or before 7 May 2017.**

Employment relationship problem

[1] The parties entered into a Record of Settlement on 26 July 2016 which was signed by a mediator in accordance with the requirements of s 149 of the Employment Relations Act 2000 (the Act). Andrew Truman (and two other former employees, not party to these proceedings) and The Zoom Group Limited (Zoom) Director, Garry Urlwin signed the Record of Settlement.

[2] Under the terms of the Record of Settlement, Zoom was to pay Mr Truman \$2,000.00 gross in holiday pay on 26 August 2016, with full payment due by 31 October 2016.

[3] Mr Truman received two payments from Zoom prior to 31 October 2016, but the balance of his holiday pay, \$5,097.07 gross, remains unpaid. By statement of problem lodged on 1 February 2017, Mr Truman sought an order for payment of this amount.

[4] Zoom lodged a statement in reply on 22 February 2017 but did not otherwise engage in the Authority's processes. In its statement of reply, Zoom agreed Mr Truman had not been paid the balance of his holiday pay but said the company had no money or assets after repayment of a bank loan.

[5] As at the date of this determination, Zoom remains a registered company and has two directors, Mr Urlwin and Neil McDonald

Compliance Order

[6] It is appropriate to make a compliance order in the circumstances of this matter.

[7] Zoom must comply with the terms of settlement by paying Mr Truman on or before 7 May 2017, \$5097.07 gross as unpaid holiday pay.

[8] Failure by Zoom to comply with the compliance order may result in Mr Truman applying to the Employment Court to exercise its powers under s 140(6) of the Act. Remedies can include an order that the person in default be sentenced to imprisonment for a term not exceeding three months and/or a fine not exceeding \$40,000.

Costs

[9] In the circumstances of Zoom's default, it is appropriate that Mr Truman is reimbursed for the Authority's filing fee. Zoom must pay Mr Truman \$71.56 on or before 7 May 2017.

Andrew Dallas
Member of the Employment Relations Authority