

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 419/08  
5139418

BETWEEN                      NATUA URETA  
Applicant

AND                              CITILAND LIMITED (IN  
REC)  
Respondent

Member of Authority:      Marija Urlich

Representatives:            Applicant, in person  
Respondent, no appearance

Investigation Meeting:     10 December 2008

Determination:              10 December 2008

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Ms Ureta makes application for a compliance order against Citiland Limited (In Rec). Compliance is sought with a record of settlement entered by the parties on 9 September 2008 pursuant to section 149 Employment Relations Act 2000. The terms of that settlement are confidential to the parties and that confidentiality should be preserved.

[2] Ms Ureta also seeks an award of interest, a penalty and recovery of the filing fee incurred in lodging this application and the initiating application.

[3] The respondent did not lodge a statement in reply. The statement of problem and notice of investigation meeting were served on the address for service provided by the Companies Register. A representative of the respondent was not in attendance at the scheduled start time of the investigation meeting. In the presence of Ms Ureta I

telephoned and spoke with one of the appointed receivers, Mr Rowan Chapman of WHK Gosling Chapman who confirmed the aforementioned documents had been received and forwarded to Mr Stephen Kelly, who signed the record of settlement on behalf of the respondent in his then capacity as director. Mr Chapman provided a mobile telephone number for Mr Kelly, on which I then left a message. Mr Kelly returned the call and advised he was bankrupt and no longer a director of the respondent.

[4] Satisfied that the respondent has had a fair opportunity to attend the scheduled investigation meeting I commenced the investigation at 10.30am.

### **Non-compliance**

[5] I am satisfied that the respondent has failed to comply with part of the record of settlement entered with Ms Ureta on 9 September 2008.

[6] **Citiland Limited (In Rec) is ordered to comply by 8 January 2009 with clause 2 of the record of settlement entered with Natua Ureta on 9 September 2008.**

### **Penalty**

[7] I have considered the penalty application. The respondent has failed to meet part of its obligations freely entered in the record of settlement without reasonable grounds. The respondent's status has not changed since it entered the record of settlement with Ms Ureta. Mr Kelly's personal circumstances have no bearing on the respondent's obligations to Ms Ureta. A penalty pursuant to section 149(4) of the Act is warranted.

[8] **Citiland Limited (In Rec) is to pay Natua Ureta \$150 by way of penalty pursuant to section 149(4) of the Employment Relations Act 2000.**

## **Interest**

[9] The Authority's jurisdiction does not extend to orders for payment of interest on sums for which compliance orders relate.

## **Costs**

[10] MS Ureta is entitled to an award of costs to reimburse the \$70 filing fee incurred in lodging this compliance application. The initiating application lodged in the Authority was resolved by way of the record of settlement. An award to reimburse that filing fee cannot be made.

[11] **Citiland Limited is ordered to pay Natua Ureta \$70.**

Marija Urlich

Member of the Employment Relations Authority