

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**AA 206A/07
5076305**

BETWEEN SIMON ROBERT von TUNZELMAN
Applicant

AND MALCOLM TAYLOR
First Respondent

WORLDWIDE PUBLISHERS
LIMITED
Second Respondent

Member of Authority: Leon Robinson

Representatives: Applicant in Person
First Respondent In Person
Malcolm Taylor for Second Respondent

Determination: 13 August 2007

DETERMINATION OF THE AUTHORITY (No 2)

[1] In a Determination dated 9 July 2007 the Authority found that the applicant Mr Simon Robert von Tunzelman ("Mr von Tunzelman") had been unjustifiably dismissed.

[2] The Authority also found that Mr von Tunzelman was owed commission. It further ordered that the respondents were to supply further information within 14 days to allow the Authority to determine the quantum of commission owed to Mr von Tunzelman. The respondents have failed to comply with the order.

[3] The respondents' failure to co-operate and assist the Authority is effectively to frustrate this investigation. Their failures ought not operate to their advantage. I now determine the matter by default as a result of the respondents' inaction. I find that the respondents are liable in debt to Mr von Tunzelman in the sum of \$40,000.00. As Mr von Tunzelman elects to proceed against Mr Taylor personally, as I have earlier found is his entitlement, **I order Malcolm Taylor to pay to Simon Robert von Tunzelman the gross sum of \$40,000.00 being arrears of wages as commission outstanding.**

[4] As neither party was represented by professional advocate, there will be no orders for costs.

Leon Robinson
Member of Employment Relations Authority