

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 19/08
5105620

BETWEEN JOSEPH MICHAEL WAIPOURI
 Applicant

AND RIGHTSIDE PROPERTIES LIMITED
 Respondent

Member of Authority: Leon Robinson

Representatives: Gillian Burness for Applicant
 No attendance by Respondent

Telephone Conference: 22 January 2008

Determination: 22 January 2008

DETERMINATION OF THE AUTHORITY

Application for Compliance

[1] Mr Joseph Michael Waipouri ("Mr Waipouri") makes application for a compliance order against the respondent Rightside Properties Limited ("Rightside").

[2] Compliance is sought with the Authority's Determination numbered AA268/07 dated 30 August 2007 ("the Determination").

[3] Rightside takes no part in the Authority's investigation and failed to defend the application by lodging a statement in reply. It has not sought leave to defend the matter.

[4] I telephoned Rightside's director Mr Neal Alan Summers ("Mr Summers") today to ascertain Rightside's position with respect to the application for compliance. Mr Summers initially denied knowledge of the telephone conference scheduled today but was later less vehement of the matter. I am satisfied from the Authority's records that Rightside was duly served at its registered office with notice of today's conference. Mr Summers confirmed that Rightside has not complied with the Determination. He proceeded unhelpfully to make unsolicited comments about substantive matters. The

Determination was not challenged. I confirmed with Mr Summers that Rightside did not challenge the Determination.

[5] Accordingly, I proceed on the basis that the application is undefended.

Non-compliance

[6] I accept that demand has been made on Rightside inviting it to comply with the Determination. I further accept, because it is not disputed, that Rightside has failed to pay to Mr Waipouri the sums awarded to him by the Authority.

[7] I am satisfied that Rightside has not complied with the Determination and I am further satisfied that the situation of non-compliance continues today.

[8] Rightside's continuing defiance of the Authority's orders places it at peril of serious consequences. The Authority's orders may be the subject of a further application for compliance in the Employment Court. The Employment Court is empowered to impose penalties for continuing non-compliance including imprisonment, fines and the sequestration of property.

Compliance Order

[9] **I order Rightside Properties Limited to comply with the Authority's Determination numbered AA268/07 dated 30 August 2007, and to do so by 22 February 2008.**

Costs

[10] Mr Waipouri shall have his lodgement fee on this application. **I order Rightside Properties Limited to pay to Joseph Michael Waipouri the sum of \$70.00 being the lodgement fee on this application.**

Leon Robinson
Member of Employment Relations Authority

