

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN	Rural Women New Zealand Incorporated (applicant)
AND	Kate Jehma (respondent)
REPRESENTATIVES	Karen Sagaga for the applicant The respondent represented herself
MEMBER OF THE AUTHORITY	Denis Asher
INVESTIGATION	Wellington, 31 October 2006
DATE OF DETERMINATION	2 November 2006

DETERMINATION OF AUTHORITY

Employment Relationship Problem

1. Rural Women say Kate Jehma breached a record of settlement dated 3 May 2006. It seeks payment of monies that the respondent agrees are owing, interest and costs – statement of problem received on 20 June 2006.
2. No statement in reply has been received from Ms Jehma.
3. The applicant says it has undertaken mediation in respect of the original employment relationship problem.

4. I directed that an investigation into this problem be held in Wellington, commencing at 10.00 a.m. on Tuesday 31 October 2006: s. 160 of the Act applied. An affidavit of service dated 3 October 2006 was received from the applicant confirming that the Authority's letter of 10 July (recording that Ms Jehma had signed for receipt of the statement of problem) and the notice of the investigation had been served on the respondent on 2 October.
5. As it happened Ms Jehma attended the investigation on 31 October.

Investigation

6. During the investigation the respondent confirmed she had not adhered to the terms of the settlement she entered into dated 3 May 2006. They included repaying the applicant the sum of \$5,385.72 by way of a payment of \$1,500 within 14 days of 4 May 2006, and a minimum of \$50 per fortnight starting from 21 days after the date of settlement. No payments have been made to Rural Women.
7. Ms Jehma attributed her failure to a period of 6-weeks' unemployment following the date of settlement, other financial commitments during that period, the fact that she had to borrow from her family so as to be able to pay for rent, food, power and telephone, and that repaying that debt was her first priority when she returned to the paid workforce.
8. The respondent says she now has temping work and is looking for permanent employment. She says that last week she earned \$325 after tax and that her weekly outgoings are \$200 for food, rent, power and telephone, and \$50 for other debts. Ms Jehma says she is able to pay the applicant \$25 per week from 6 November 2006 primarily because her father has agreed to guarantee the payments if she is out of work or otherwise unable to meet them.
9. Rural Women says it wants a compliance order along the lines set out in its statement of problem and that its main priority is the respondent paying to it the amount owed and its costs. As at today the amount sought was:

The sum agreed to in the Record of Settlement:	\$5,385.72
Interest from 18 May 2006 until today (i.e. 11% p.a. per District Courts Act, for 166 days @ \$1.62 per day)	\$ 269.43
Costs to date	\$2,000.00

Filing fee	\$ 70.00
Total	\$7,725.15

Discussion and Findings

10. The respondent agrees and accepts that she is in breach of the Record of Settlement she entered into, dated 4 May 2006. She does not dispute or take issue with any aspect of Rural Women's claim.
11. However, I do not accept the applicant's claim for interest on the outstanding monies and its costs claim. That is because of the amount and the Act applied, 11% by way of the District Courts Act. I am satisfied instead that a fair and reasonable rate is the current 90-day bill rate of 7.58%, or \$186 for the period in question: clause 11 of Schedule 2 of the Act applied.
12. With that adjustment, it follows that the applicant is entitled to a compliance order from the Authority, under s. 137(2) of the Act, in respect of that Record of Settlement.
13. Specifically, the respondent is to comply with the Record of Settlement of 4 May 2006 by paying to Rural Women the sum of \$25 weekly, commencing from 6 November 2006 and continuing thereby until the amount of \$7,641.72 is repaid to it, no later than 30 October 2012.

Determination

14. For the reasons set out above I find in favour of the applicant, Rural Women New Zealand Incorporated's, claim for an order against the respondent, Ms Kate Jehma, pursuant to s. 137(1) (a) (iii) of the Employment Relations Act 2000.
15. The respondent is specifically ordered to commence payments of \$25 (twenty-five dollars) per week from Monday 6 November and to continue those payments until she has repaid to the applicant the sum of \$7,641.72 (seven thousand, six hundred and forty-one dollars and seventy two cents), by no later than 30 October 2012.
16. I repeat here to Ms Jehma the message that I conveyed during today's investigation: this is a serious matter. The provisions of the Act mean that failure to comply can result in fines and/or imprisonment.

17. As already demonstrated, ignoring this issue will only see it grow in difficulty. It is in the respondent's direct interest to commence and continue regular payments to the applicant. In the event of personal circumstances limiting Ms Jehma's ability to meet her obligation then she is strongly advised to contact the applicant and/or its representative on an as soon as possible basis so as to attempt to resolve that problem.

Denis Asher

Member of Employment Relations Authority