

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 343/07
5047955

BETWEEN

JAMIE GRIFFIN
Applicant

AND

PRIESTLEY AND
SOMERVILLE LIMITED
previously named DEBT
RECOVERY GROUP NZ
LIMITED
Respondent

Member of Authority: Marija Urlich

Representatives: Kelly Rowell, for Applicant
Gilbert Chapman, for Respondent

Investigation Meeting: 31 October 2007

Determination: 31 October 2007

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Mr Griffin seeks to enforce a Record of Settlement entered between the parties on 30 May 2007. The Record of Settlement was made pursuant to section 149 Employment Relations Act 2000 and its terms require the respondent to make the following payments:

- (i) \$4000 by way of compensatory payment to Mr Griffin by 8 June 2007;
- (ii) \$1000 (plus GST) to Swarbrick Beck, solicitors acting for Mr Griffins, as invoiced.

[2] Mr Griffin also seeks:

- (i) a 7 day term for any compliance order made in his favour;
- (ii) a penalty pursuant to section 149(4) Employment Relations Act 2000;
and
- (iii) an award of full costs.

Non-compliance

[3] The respondent does not dispute that it has failed to fulfil its obligations under the Record of Settlement.

[4] Mr Chapman¹ said today that the business changed its name on 29 June 2007, that it ceased to trade on 30 June 2007 and that a liquidator will be appointed this Monday to begin the process of winding up the respondent company. He said these events have not occurred to avoid the obligations of the Record of Settlement.

[5] No evidence has been provided of the respondent's financial situation which would render a compliance order of no practical benefit. The respondent has not filed a statement in reply, despite the Authority extending the timeframe within which to do so, has filed no evidence to support its position, had to be contacted this morning by the Authority when it was not in attendance at the scheduled start of the investigation meeting and whose attendance by telephone then delayed and disrupted the investigation meeting.

[6] The respondent has made no attempt to pay the money it bound itself to pay to Mr Griffins and it has made no attempt to explain this failure.

[7] I accept that Mr Griffin has acted reasonably in his pursuit of this application and that delays have been occasioned by the respondent's response to that application.

Compliance Order

[8] **I order PRIESTLEY AND SOMERVILLE LIMITED previously named DEBT RECOVERY GROUP NZ LIMITED to comply with clause 2 and clause 3**

¹Attended today's investigation meeting by telephone.

of the Record of Settlement entered by the parties on 30 May 2007 within 14 days of the date of this determination.

Penalty

[9] On the material before me the respondent's breach of the Record of Settlement can only be seen as wilful. A penalty is warranted.

[10] **I order PRIESTLEY AND SOMERVILLE LIMITED previously named DEBT RECOVERY GROUP NZ LIMITED to pay the sum of \$1000 as a penalty, that sum to be paid into the Authority for the benefit of the Crown.**

Costs

[11] Mr Griffin is entitled to an award reimbursing the full costs he has incurred in pursuing this matter.

[12] **I order PRIESTLEY AND SOMERVILLE LIMITED previously named DEBT RECOVERY GROUP NZ LIMITED to pay to JAMIE GRIFFIN the sum of \$2,500.00, plus disbursements of \$157.50, plus the filing fee of \$70.**

Marija Urlich

Member of the Employment Relations Authority