

respondent company is legally obliged to comply with the demand notice and pay \$2,124.87 (gross) to the Labour Inspector for the use of Glenda Denise Wyeth.

[5] Mr Boniface lodged this application with the Authority on 28 September 2009. The application was served on the respondent at its address for service on 29 September 2009. There was no response from the respondent. On 23 November 2009, in accordance with the Authority's directions, Mr Boniface served on the respondent a notice dated 18 November 2009. The notice advised the respondent that it required leave of the Authority to defend this application since it had not lodged a statement in reply. The respondent was offered a final opportunity to have any defence considered if it did lodge a statement in reply with 7 days. The notice also expressed the view that the applicant appeared to be entitled to enforce his demand notice by compliance order which the Authority would grant unless it heard from the respondent. The indicated time has now elapsed.

[6] The respondent has put itself in a hopeless position by its complete failure to engage with the Authority. It could have lodged an objection to the demand notice, but it did not. It could have replied to the statement of problem in a timely manner, but it did not. It could have responded to the last chance opportunity reflected in the 18 November notice, but it did not.

[7] A consequence of the respondent's failure to lodge an objection to the demand notice is that it may be enforced by the Authority making a compliance order: see s.225(4)(c) of the Act. I am satisfied that the respondent has not observed or complied with the demand notice. The case seems to be one of a stubborn unwillingness without good reason on the respondent's part to comply with clear legal obligations. A compliance order is an appropriate remedy.

Orders

[8] Pursuant to s. 137(1) of the Employment Relations Act 2000 I make an order requiring the respondent to comply with the demand notice by paying to the Labour Inspector \$2,124.87 (gross) for the use of Glenda Denise Wyeth. The respondent must make this payment within 7 days of service on it of a copy of this determination.

[9] I am asked to order that the Labour Inspector may take enforcement action in the District Court in the event that the respondent does not comply with this compliance order. The demand notice is already enforceable as a judgment debt in

the District Court: see s.225(4)(d) of the Act. However, the respondent should be aware that a failure to comply with the compliance order just made renders it liable to enforcement action in the Employment Court, including substantial fines and sequestration. A copy of s.140(6) of the Act is attached.

[10] I was not asked to order the payment of interest.

[11] I am asked to order costs of \$70.00 against the respondent and do so.

[12] The Labour Inspector should serve this determination on the respondent.

Philip Cheyne
Member of the Employment Relations Authority