

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

5309596
AA 354/10

BETWEEN DAVID MYATT (LABOUR
INSPECTOR)
Applicant

AND PECKS COTTAGE
BAKERIES LIMITED
Respondent

Member of Authority: Alastair Dumbleton

Representatives: Labour Inspector in person
No appearance for Respondent

Investigation Meeting: 9 August 2010

Determination: 10 August 2010

DETERMINATION OF THE AUTHORITY

Application for compliance order

[1] On 7 May 2010 under AA217/10 the Authority issued a determination ordering Pecks Cottage Bakeries Limited to pay to Labour Inspector Mr David Myatt a total of \$157.72 gross as wages and holiday pay due to an employee, Ms Jessica Walters, under the Minimum Wage Act 1983 and the Holidays Act 2003.

[2] The respondent company was also ordered to pay interest on that amount at 4.5% per annum from 7 May 2010 until payment was fully made.

[3] Penalties to a total of \$1,800 were ordered for breaches by the company of the Holidays Act, Minimum Wage Act and the Employment Relations Act 2000, and payment of \$70 was ordered to reimburse the Inspector the fee paid to lodge his application.

[4] In a new application lodged on 21 June 2010, Mr Myatt has sought a compliance order to require the respondent company to comply with the determination of 7 May 2010.

[5] As with the previous meeting of 6 May 2010, there has been no appearance by Pecks Cottage Bakeries Ltd at the latest meeting. I am satisfied that the company was served with a copy of the Authority's determination dated 7 May and also with a notice of the investigation meeting held on 9 August 2010. No steps have been taken at any time in this matter by the respondent company and nothing has been heard by the Authority from anyone on behalf of the company.

[6] I am satisfied that there has been non-compliance with a determination issued by the Authority and that an order made under s 137 of the Act is should be made for the purpose of preventing further non-compliance.

Determination

[7] Pecks Cottage Bakeries Ltd is ordered to comply with the Authority's determination dated 7 May 2010 and to do so on or before 19 August 2010. Failure to observe this order may be met by an application to the Employment Court for the exercise of its powers under s 140(6) of the Employment Relations Act. They include power to fine up to \$40,000 any person in default of the compliance order and power to seize the property of that person so it may be disposed of to pay the amount outstanding of the determination. In law an incorporated company is a person.

[8] Pecks Cottage Bakeries Ltd is ordered to pay to the Labour Inspector Mr Myatt, the sum of \$70 to reimburse him for the fee paid to bring this application for compliance. The total of all payments to be made is \$2,097.72. Interest of 4.5% is payable on \$157.72 of that sum from 7 May 2010.