

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

WA 58/10

File Number: 5291737

BETWEEN Eleanor Hall  
Applicant

AND Shane Parore t/a The Thirsty  
Dog Bar & Café  
Respondent

Member of Authority: Denis Asher

Representatives: Michael McAleer for Ms Hall  
No appearance by or for the respondent

Investigation Meeting On the papers

Submissions Received By 30 March 2010 from the applicant

Determination: 7 April 2010

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] The background to this employment problem is set out in my notice of directions dated 24 March 2010:

[1] *In her statement of problem filed on 24 December 2009 Ms Hall says Mr Parore has failed to comply with a mediated settlement he and she entered into on 17 November 2009. She seeks compliance.*

[2] *Notice of the statement of problem was delivered to Mr Parore's business, the Thirsty Dog Bar and Café and signed for on 29 December.*

[3] *No statement in reply has been received from the respondent. No other advice or response has been forthcoming from Mr Parore.*

[4] *The Authority has been advised that Mr Parore has still not complied with the mediated settlement he entered into, and that it has not been possible to comply with the Authority's Notice of Direction dated 10 February 2010 as Mr Parore could not be located for service. A new notice is sought.*

[5] *The Authority hereby directs that Mr McAleer will serve on Mr Parore this notice of direction. Mr Parore has 5 days from receiving the direction to file in the Authority his statement in reply, and/or affidavit evidence in respect of this matter. Copies of the reply are to be provided to both the Authority and the applicant.*

[6] *The applicant is to file affidavit evidence and any documentary evidence in support of her claim with the Authority and the respondent if possible, that the respondent has breached the agreed mediated settlement, as soon as possible*

[7] *The Authority will then issue its determination based on the papers 7 days after Mr Parore has been served with this direction.*

[2] By fax received on 30 March Mr McAleer advised that Ms Hall, as witnessed by a Monique E. Hall had served the notice of directions on Mr Parore on 26 March at 17.05 hours. Mr Parore has not made contact with the Authority, before or following the serving of notice of directions on him.

### **Applicant's Position**

[3] In her affidavit filed with the Authority on 12 February the applicant confirmed that all of the three cheques previously provided by Mr Parore had been

dishonoured and, despite subsequent assurances to the contrary, he has still not paid any monies to Ms Hall.

### **Respondent's Position**

[4] Mr Parore has maintained his consistent silence.

### **Discussion and Findings**

[5] In the record of settlement signed off by Mr Parore he undertook to pay to Ms Hall \$3,000 by 20 November 2009: no payments in fact have been made, and Mr Parore has never accounted for his failure to comply with the agreement he freely entered into.

[6] Ms Hall also seeks indemnity costs of \$500: while costs have not been particularised it is inevitable that Ms Hall will have incurred legal costs in respect of this application. I am satisfied the sum sought amounts to an appropriate contribution to her fair and reasonable costs.

[7] I am not aware of any good reason not to require Mr Parore to comply with the record of settlement he entered into, and to contribute to Ms Halls' costs arising out of his failure to do so.

### **Determination**

[8] Mr Parore is to pay Ms Hall the sum of \$3,000 (three thousand dollars), as well as an indemnity of costs of \$500 (five hundred dollars), and the filing fee of \$70 (seventy dollars) within 7 days from the date of this determination, i.e. 14 April 2010.

**Denis Asher**

**Member of the Employment Relations Authority**