

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2011] NZERA Christchurch 141
5330611

BETWEEN	LABOUR INSPECTOR (JO- ANN DUFF) Applicant
A N D	MAORI HILL & BALMACEWEN PHARMACY LIMITED Respondent

Member of Authority: James Crichton
Investigation Meeting: On the papers
Date of Determination: 23 September 2011

DETERMINATION OF THE AUTHORITY (NO 2)

Employment relationship problem

[1] The Authority's substantive determination issued on 11 August 2011. A term of that determination required that the payments directed to be made to the Labour Inspector by the respondent employer were to be effected within 14 days of the date of the determination, in lieu of which leave was reserved for the Labour Inspector to apply to the Authority for the imposition of penalties.

[2] The 14 days stipulated in the substantive determination have now passed and by letter dated 31 August 2011, the Labour Inspector applies for the imposition of those penalties. In doing so, she records that the respondent employer confirmed to her that it did not intend to pay the various wages awards made by the Authority and that it intended to challenge the determination.

Issues

[3] The only issue for determination is whether it is just and equitable to impose penalties on the respondent employer for its failure to meet the terms of the

substantive determination, within time. The Authority's reasoning in making the decision it did was that, by deferring the consideration of penalties, it might encourage the employer to meet its obligations. Notwithstanding that, the Labour Inspector had made an application for penalties to be imposed as part of her statement of problem and there was no reason in principle for those penalties not to be levied at the time. The Authority determined to defer consideration of the matter to try to encourage the respondent employer to meet the wages obligations it had by law but in the result, that incentive was not successful.

Determination

[4] The Authority sees no reason now to depart from the conclusions reached in the substantive determination which were that the respondent employer was in default in its failure to meet its statutory obligations to a number of young women working for it, that it ought to make good that default by paying the wages due and owing calculated in accordance with the appropriate legal principles and that, on its evident failure to accept that those were in fact its obligations, penalties ought to apply.

[5] I am satisfied that a proper approach to this matter is to impose a penalty against Maori Hill and Balmacewen Pharmacy Limited in the sum of \$2,000 for the several breaches of its legal rights made by the respondent employer in respect of each of Nicole Jordan, Siraya O'Sullivan and Amy Hughes.

[6] I further direct that the \$2,000 penalty imposed in respect of each of the three abovenamed former employees is, in the circumstances of this particular case, to be payable to the Labour Inspector, not for payment into the Consolidated Fund but for remission to each of the three former employees.

James Crichton
Member of the Employment Relations Authority