

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2012] NZERA Auckland 46  
5367250

BETWEEN	RODERICK BROWN (LABOUR INSPECTOR) Applicant
AND	NORTH WEST LOGGING LIMITED Respondent

Member of Authority: Rachel Larmer

Representatives: Alan Reid, Labour Inspector for Applicant

Investigation Meeting: On the papers

Information: Affidavit filed on behalf of Applicant on 27 January 2012

Determination: 03 February 2012

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**DETERMINATION OF THE AUTHORITY**

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- A Within 14 days of the date of this determination, North West Logging Limited (“NWLL”) is ordered to:**
- (a) Comply with paragraph 82 of the Authority’s determination [2011] NZERA Auckland 285 (AEA 5339359) dated 04 July 2011.**
  - (b) Reimburse Mr Roderick Brown (Labour Inspector) \$71.56 for the filing fee in respect of this matter.**

**Employment Relationship Problem**

[1] Mr Roderick Brown (Labour Inspector) has applied on behalf of Mr Riki Te Whiu for a compliance order that NWLL comply with the Authority’s determination [2011] NZERA Auckland 285 (AEA 5339359) dated 04 July 2011.

### **Service of Statement of Problem**

[2] Mr Brown's application was served on NWLL at the registered office and address for service listed on the companies website, namely; 98a-2 Riverside Road Whataupoko Gisborne by track and trace courier post. It was signed for by R Grage on 23 December 2011.

[3] NWLL did not file a Statement in Reply within 14 days of service of the Statement of Problem.

### **Leave to file Statement in Reply out of time**

[4] The Authority wrote to NWLL's sole director Mr Michael Page on 25 January 2012 advising that a Statement in Reply had not been filed within 14 days of service and that if NWLL wanted to defend the application for a compliance order then it had to seek leave to file a Statement in Reply out of time. NWLL was given until 27 January 2012 to do so.

[5] NWLL did not respond to the Authority's communication to Mr Page.

[6] No application for leave was received.

### **Evidence**

[7] The Authority was asked by the applicant to deal with this matter on the papers and it agreed to do so.

[8] Both parties were advised that they had until 27 January 2012 to file any evidence and submissions they wanted the Authority to take into account when determining this matter.

[9] NWLL did not provide any information.

[10] Mr Alan Reid (Labour Inspector) filed a sworn affidavit on 27 January 2012 which deposed that;

- a. He had drafted a letter on Mr Brown's behalf to NWLL dated 06 July 2011 which had demanded payment of the amounts awarded under the Authority's determination dated 04 July 2011, a copy of which was enclosed with the letter;
- b. NWLL was asked to make payment within 28 days of the date of the letter;
- c. Mr Brown wrote to NWLL's accountant, Mr J McGregor of Endeavour Chartered Accountants in Gisborne, enclosing a copy of the letter of demand together with a copy of the Authority's determination and reiterating that payment was required within 28 days;
- d. No response was received to either communication;
- e. NWLL has not made the payments it was ordered to make in the Authority's substantive determination;
- f. NWLL has not filed a challenge to the Authority's substantive determination;
- g. NWLL was unlikely to pay the amounts it had been ordered by the Authority to pay in its substantive determination unless a compliance order was issued;
- h. Reimbursement of the \$71.56 filing fee was sought.

[11] Mr Reid filed an affidavit in support of Mr Brown's application for a compliance order because;

- a. Mr Brown was on long term sick leave so was unable to provide a sworn affidavit himself;
- b. He was also a Labour Inspector and he worked closely with Mr Brown;
- c. He had assisted Mr Brown to prepare the letters of demand;
- d. He was personally aware that NWLL had not responded to these demands; and
- e. He was personally aware that NWLL had not paid the amounts it had been ordered to pay in the Authority's substantive determination.

## **Outcome**

[12] I am satisfied that:

- a. These proceedings were served on NWLL;
- b. NWLL elected not to take any steps to defend the application;
- c. NWLL has not complied with the Authority's substantive determination;
- d. NWLL is unlikely to comply unless a compliance order is issued;
- e. A compliance order is necessary and appropriate;
- f. Mr Brown has incurred the cost of the \$71.56 filing fee in respect of this matter.

## **Orders**

[13] NWLL is ordered to comply, within 14 days of the date of this determination, with the Authority's substantive determination dated 04 July 2011 under [2011] NZERA 285 (AEA 5339359). This means that

- a. NWLL must make the payments set out in paragraph 82 of the Authority's substantive determination;
- b. NWLL is required to pay Mr Brown interest on the amount of \$5,472.72 from 19 August 2010 until it has been paid in full.

[14] NWLL is also ordered to reimburse Mr Brown \$71.56 for the filing fee within 14 days of the date of this determination.

Rachel Larmer  
Member of the Employment Relations Authority