

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 518
5443121

BETWEEN

DEEPIKA SINGH
Applicant

A N D

SMALL BUSINESS WEB
DESIGN LIMITED (KIWI
WEBSITE DESIGN
LIMITED)
Respondent

Member of Authority: T G Tetitaha

Representatives: Applicant in person

Submissions Received: 19 October 2014 from Applicant
No submissions from Respondent

Date of Determination: 16 December 2014

DETERMINATION OF THE AUTHORITY

A. The application for compliance order is dismissed.

B. There is no order for costs.

Employment Relationship Problem

[1] The applicant seeks a compliance order to enforce a record of settlement dated 18 September 2013. The record of settlement names the above respondent party. The respondent has not filed a statement in reply.

[2] By Minute dated 10 October 2014 I recorded concerns about the enforceability of the record of settlement given s149(3) of the Employment Relations Act 2000. The record of settlement names a legal entity "Small Business Web Design Limited (Kiwi Website Design Limited)". The Support Officer has undertaken a Companies Office

search and there is no record of a company known as Small Business Web Design Limited or Kiwi Website Design Limited. There is a company registered in the name of Small Business Online Solutions Limited trading as Kiwi Website Design at the Companies Office. I directed the parties to file and further evidence or submissions by 24 October 2014 and the matter would then be determined upon the papers.

[3] The applicant filed submissions attaching a copy of her job offer letter which states her employer was Small Business Online Solutions Limited trading as Kiwi Website Design. She submits Mr Hayat signed the job offer and affixed his signature to the record of settlement. The applicant further submits she gave the above information to the mediator which was misread and they named the incorrect respondent. She submits the respondent has signed the record of settlement accepting he owes this money.

[4] She also refers to the telephone conversations between the respondent's representatives and the mediator. She also refers to the telephone conference before me as evidence of the debt owed.

[5] Section 149(3)(b) of the Employment Relations Act 2000 restricts my jurisdiction to enforcement purposes otherwise "*no party may seek to bring those terms before the Authority or the Court, whether by action, appeal, application for review, or otherwise*". Penalties may also be sought under s149(4) but that does not assist this applicant.

[6] Ms Singh seeks a variation of the record of settlement to reflect a different respondent. I do not have the jurisdiction to do so by way of compliance order for a record of settlement. I can only issue a compliance order in the names of the persons set out in the record of settlement. If there has been error in the naming of the respondent, a new record of settlement or an amended record of settlement needs to be issued and signed by both parties. Mediation services can assist in rectifying this mistake.

[7] In the circumstances the application for compliance order is dismissed. There is no order for costs, both parties having been self-represented.

A handwritten signature in black ink, appearing to read 'T G Tetitaha', written in a cursive style.

T G Tetitaha
Member of the Employment Relations Authority