

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 43
5437906

BETWEEN JAMES DENYER, LABOUR
 INSPECTOR
 Applicant

A N D PETER REYNOLDS
 MECHANICAL LIMITED
 TRADING AS THE ITALIAN
 JOB
 SERVICE
 Respondent

Member of Authority: Rachel Larmer

Representatives: Applicant in person
 No appearance by Respondent

Investigation Meeting: On the papers

Date of Determination: 07 February 2014

DETERMINATION OF THE AUTHORITY

- A. Peter Reynolds Mechanical Limited trading as The Italian Job Service (Peter Reynolds Mechanical) is ordered to comply with the Authority's determination dated 3 October 2013¹ within 7 days of the date of this determination by paying to Mr Denyer, on behalf of employee Mr Gareth Costa:**
- (a) \$1,568.80 holiday pay;**
 - (b) Interest at the rate of 5% on the amount of \$1,568.80 from 22 October 2012 until that amount is paid in full;**
 - (c) \$71.56 to reimburse the filing fee.**

¹ [2013] NZERA Auckland 460.

- B. Peter Reynolds Mechanical is also ordered within 7 days of the date of this determination to pay Mr Denyer \$71.56 to reimburse him for the filing fee for this application.**

Employment relationship problem

[1] This is a reopening of the determination issued on 03 December 2013, [2013] NZERA Auckland 554. That determination incorrectly referred to the respondent as Mr Peter Reynolds when the correct respondent is Peter Reynolds Mechanical Limited trading as The Italian Job Service which I refer to in this determination as “Peter Reynolds Mechanical.”

[2] The issue with the respondent’s correct name was drawn to the Authority’s attention by the Labour Inspector Jim Denyer at the time enforcement proceedings were contemplated. The Authority is advised that no money has been received for Mr Costa’s holiday pay.

[3] The parties were served with notice of the Authority’s reopening of its investigation into Ms Denyer claims as Labour Inspector on 21 January 2014. They advised that the Authority proposed to deal with the reopening issue on the papers and were given an opportunity to file evidence and/or submissions in support of their views.

[4] Neither party has filed any information so this matter has been determined based on all of the information available to the Authority which has previously been disclosed to both parties.

[5] Labour Inspector Mr Jim Denyer seeks a compliance order against Peter Reynolds Mechanical Limited trading as The Italian Job Service (Peter Reynolds Mechanical) ordering it to comply with the Authority’s substantive determination of 3 October 2013² because it has not paid any of the amounts in that determination.

No appearance by respondent

[6] Peter Reynolds Mechanical did not file a Statement in Reply, nor did it apply for leave to file a Statement in Reply out of time. I am satisfied the Statement of Problem and the Notice of Investigation Meeting were both served on Peter Reynolds,

² Ibid 1.

Mechanical which did not appear at the Authority's investigation meeting on 03 December 2013.

Outcome

[7] I am satisfied that it is unlikely Peter Reynolds Mechanical will pay Mr Denyer the amount it has been order to pay unless a compliance order is issued. Accordingly, Peter Reynolds Mechanical is ordered to comply with the Authority's determination of 03 October 2013 by paying Mr Denyer:

- (a) \$1,568.80 unpaid holiday pay;
- (b) Interest at the rate of 5% on \$1,568.80 from 22 October 2012 until that amount has been paid in full;
- (c) \$71.56 to reimburse the filing fee for that substantive application.

[8] Peter Reynolds Mechanical is ordered to comply with the Authority's determination of 03 October 2013 by paying the above amounts within 7 days of the date of this determination.

Costs

[9] Peter Reynolds Mechanical is ordered to pay Mr Denyer \$71.56 to reimburse the filing fee for this application.

Rachel Larmer
Member of the Employment Relations Authority