

**IN THE EMPLOYMENT RELATIONS
AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

[2019] NZERA 725
3072023

BETWEEN	GEORGIA ADAMS Applicant
AND	SOAP OPERA PRODUCTIONS LIMITED First Respondent
AND	CCE GROUP LIMITED Second Respondent

Member of Authority: Vicki Campbell

Representatives: Applicant in Person
No appearance for First Respondent
Sophie Cooper for Second Respondent

Investigation Meeting: On the papers before the Authority

Determination: 20 December 2019

DETERMINATION OF THE AUTHORITY

- A. Ms Adams' application for a compliance order is declined.**
- B. CCE Group Limited is ordered to pay to Ms Adams the sum of \$71.56 in reimbursement of her costs associated with this application.**

Employment relationship problem

[1] In her statement of problem lodged in the Authority Ms Adams seeks an order that Soap Opera Productions Limited comply with a Record of Settlement (the settlement agreement) entered into on 4 June 2019.

[2] The settlement agreement was the result of a mediation attended by Ms Adams and Ms Sophie Cooper, a Director and Shareholder of CCE Group Limited and was signed by a Mediator employed by the Ministry of Business Innovation and Employment that same day in accordance with s 149 of the Employment Relations Act 2000 (the Act).

[3] The statement of problem was initially served on the registered address for service for Soap Opera Productions Limited. No statement in reply was received. Ms Adams had provided an email address for Ms Cooper in her statement of problem and this email address was used by the Authority to follow up on the lack of a statement in reply.

[4] In response, Ms Cooper advised the Authority that she had not received the statement of problem. One was then served by email on 19 September 2019 and this was acknowledged by Ms Cooper that same day. In a reply email Ms Cooper raised a question about the correct employer entity. She advised the Authority that Ms Adams was actually employed by CCE Group Limited and was not employed by Soap Opera Productions Limited.

[5] Ms Cooper explained that she was not in full health when the parties attended mediation and did not realise until she received the statement of problem and associated documents, which included the settlement agreement, that she had signed the settlement agreement off under the name of Soap Opera Productions Limited.

[6] Ms Cooper was clear in her communications to the Authority that CCE Group Limited was responsible for the payments under the settlement agreement and not Soap Opera Productions Limited.

[7] Section 221 of the Act gives the Authority the power to join parties of its own motion to proceedings at any stage to enable it to more effectively dispose of any matter, according to the substantive merits and equities of the case. The parties were advised on 26 November 2019 of my intention to join CCE Group Limited under s 221 of the Act.

[8] I have received no responses to my proposal but CCE Group has now lodged and served a statement in reply.

[9] For the foregoing reasons CCE Group Limited has been added as a respondent to these proceedings.

Claim for compensation

[10] In her statement of problem Ms Adams sought compliance orders, costs and compensation under s 123(1)(c)(i) of the Act. The claim for compensation is misconceived because in her statement of problem Ms Adams does not claim that she has a personal grievance. Remedies under s 123 of the Act are only available where the Authority determines an employee has a personal grievance.

[11] Even if Ms Adams had sought determination of a personal grievance, the settlement agreement signed by her on 4 June 2019 would be a barrier to her pursuing a personal grievance. That is because the settlement agreement is in full and final settlement of all matters arising out of her employment relationship.

Compliance orders

[12] Ms Adams raised a personal grievance on 4 March 2019 and the parties attended mediation on 4 June 2019. Mediation ended with the settlement agreement signed by the Mediator. The settlement agreement required a payment to be made to Ms Adams in the sum of \$2,300. It was agreed the sum would be paid in eight equal instalments of \$287.50 by way of direct credit to Ms Adam's account.

[13] When she lodged her statement of problem Ms Adams acknowledged she had received four of the eight payments and was owed a further \$1,150 from CCE Group Limited. In email correspondence with the Authority on 19 September 2019 Ms Adams advised the Authority that further payments had been received and the balance of \$287.50 remained outstanding.

[14] Ms Cooper advised the Authority by email on 8 October 2019 that she understood all outstanding payments under the settlement agreement had been paid to Ms Adams. Ms Adams has confirmed she has received all payments albeit two months late.

[15] The public interest in having terms of a settlement agreement, made and certified in mediation, honoured by the parties to that settlement agreement favours an order for compliance. However, I am satisfied all payments due under the settlement agreement have been made and there is nothing outstanding.

Costs

[16] Ms Adams has asked for reimbursement of her filing fee on this application. It was only after Ms Adams lodged this application that the settlement agreement was met in full. It is appropriate for CCE Group to reimburse the filing fee.

[17] CCE Group Limited is ordered to pay to Ms Adams the sum of \$71.56 in reimbursement of her costs associated with this application.

Vicki Campbell
Member of the Employment Relations Authority