

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2020] NZERA 9
3081954

BETWEEN CORY GATES
 Applicant

AND D C CLADDING AND
 RE-CLAD SOLUTIONS
 LIMITED
 Respondent

Member of Authority: Rachel Larmer

Representatives: Paul Mathews, Advocate for the Applicant
 No Appearance by Respondent

Investigation Meeting: 9 January 2020 in Auckland

Written Record of Oral 10 January 2020
Determination:

ORAL DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] On 1 October 2019 the Authority ordered DC Cladding and Re-Clad Solutions Limited (DC Cladding) to pay Mr Cory Gates \$34,061.07. DC Cladding was also ordered to pay \$2,500 of the total penalties imposed to the Crown Bank Account.¹ On 16 November 2019 Mr Gates was awarded costs and disbursements of \$4,500.²

[2] Mr Gates says DC Cladding has not paid him anything, despite requests to do so. Mr Gates now seeks a compliance order that DC Cladding pay him the amounts he has been awarded.

¹ [2019] NZERA 556.

² [2019] NZERA 591.

[3] DC Cladding was served with the Statement of Problem by track and trace courier on 27 November 2019 at its registered address for service. It was signed for by Karen Cook.

[4] DC Cladding did not file a Statement in Reply and it did not seek leave to file a Statement in Reply out of time.

[5] DC Cladding was served with the Notice of Hearing by track and trace courier on 19 December 2019 at its registered address for service. It was signed for by Karen Cook.

[6] DC Cladding did not attend the investigation meeting. It has not had any communications with the Authority.

[7] The Authority has accepted Mr Gates' sworn and uncontested evidence that DC Cladding has not paid him anything as a result of the Authority's two determinations.

[8] DC Cladding is currently in breach of the Authority's two determinations and it is likely to continue to be in breach of them unless compliance orders are made.

[9] It is therefore appropriate for the Authority to exercise its discretion to order DC Cladding, within 14 days of the date of this determination, to comply with the two determinations it has previously issued, and in particular:

- (a) Paragraphs [56](a)-(c) of its 1 October 2019 determination by paying Mr Gates \$34,061.07 and the Crown Bank Account \$2,500; and
- (b) Paragraph [10] of its 16 October 2019 determination by paying Mr Gates \$4,500.

[10] Mr Gates as the successful party is entitled to an award of costs in his favour in terms of this compliance order application.

[11] DC Cladding is ordered, within 14 days of the date of this determination, to pay Mr Gates \$500 towards his actual legal costs plus \$71.56 to reimburse his filing fee.

Rachel Larmer
Member of the Employment Relations Authority