

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2021] NZERA 152
3129457

BETWEEN	CERES NEW ZEALAND LLC First Applicant
AND	HESTIA LIMITED Second Applicant
AND	DAVID ALLISON Respondent

Member of Authority: Helen Doyle

Representatives: Sarah Townsend and Hamish Rossi, counsel for the Applicant
Anna Oberndorfer, advocate for the Respondent

Investigation Meeting: On the papers
Telephone conference on 30 March 2021

Date of Determination: 16 April 2021

DETERMINATION OF THE AUTHORITY

- A David Allison is ordered to comply with paragraph 29 of the determination of the Authority [2020] NZERA 320 and pay the sum of \$5,000 to Ceres New Zealand LLC within 14 days of the date of this determination.**
- B David Allison is ordered to comply with paragraph 23 of the determination of the Authority [2020] NZERA 320 and pay the sum of \$1,500 to Hestia Limited within 14 days of the date of this determination.**
- C David Allison is ordered to pay costs on this application in the combined sum of \$500 to Ceres New Zealand LLC and Hestia Limited together with reimbursement of the filing fee of \$71.56.**

Employment Relationship Problem

[1] The Authority has issued three determinations in the resolution of David Allison's employment relationships problems.

[2] The first was a determination dated 16 September 2019. The Authority determined that Mr Allison was employed by Ceres New Zealand LLC (Ceres). The claim against Hestia Limited (Hestia) was struck out.¹

[3] The second was a determination dated 2 July 2020 in which Mr Allison's claims against Ceres were found to be unsuccessful.²

[4] The third was a determination dated 14 August 2020 in which Mr Allison was ordered to pay costs to Hestia in the sum of \$1500 and to Ceres in the sum of \$5,000.³

[5] Requests have been made by Hestia and Ceres to Mr Allison for payment of the costs on at least four occasions on and following 14 August 2020.

[6] There is no dispute that costs remain unpaid. There has not been a challenge to the costs determination.

[7] Ceres and Hestia now apply for compliance orders that Mr Allison pay \$1,500 costs to Hestia and \$5,000 to Ceres. They further ask for costs on the current application.

[8] There was agreement with the representatives during a telephone conference on 30 March 2021 that the matter be determined on the papers.

Should an order for compliance be made?

[9] The Authority has the power under s 137(1)(b) of the Employment Relations Act 2000 to order compliance where there has been a failure to observe or comply with a determination of the Authority .

¹ David Allison v Hestia Limited and Ceres New Zealand LLC (proposed respondent) [2019] NZERA 534.

² *Allison v Ceres New Zealand LLC* [2020] NZERA 267.

³*Allison v Ceres New Zealand LLC* [2020] NZERA 320.

[10] It is accepted that there has been a failure to pay the amounts awarded by the Authority for costs. There was no good reason advanced why the Authority should not order compliance with the Authority determination.

Orders for compliance

[11] The Authority makes the following orders for compliance.

[12] David Allison is ordered to comply with paragraph 29 of the determination of the Authority [2020] NZERA 320 and pay the sum of \$5,000 to Ceres New Zealand LLC within 14 days of the date of this determination.

[13] David Allison is ordered to comply with paragraph 23 of the determination of the Authority [2020] NZERA 320 and pay the sum of \$1,500 to Hestia Limited within 14 days of the date of this determination.

Costs

[14] Hestia and Ceres seek costs in the sum of \$500 together with reimbursement of the filing fee for the current application. I accept that is a reasonable claim for costs. There has been an application made, consideration of the statement in reply and attendance on a telephone conference with the Authority.

[15] An order for reimbursement of the filing fee is also appropriate.

[16] I order that David Allison pay costs to Ceres New Zealand LLC and Hestia Limited in the combined sum of \$500, together with reimbursement of the filing fee of \$71.56.

Helen Doyle
Member of the Employment Relations Authority