

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2024] NZERA 410
3297939

BETWEEN

TANIA KEANE
Applicant

AND

GENUINE NZ LIMITED
First Respondent

LE-ANNE CHANNEL HARRIS
Second Respondent

COCO-FRANCINE CHOI YIN
CHINN
Third Respondent

Member of Authority: Peter van Keulen

Representatives: Paul Mathews, advocate for Applicant
Charles Johnston, advocate for the Respondents

Investigation Meeting: 9 July 2024 by AVL

Submissions Received: 9 July 2024 for the Applicant
9 July 2024 for the Respondents

Date of Determination: 10 July 2024

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] In a determination dated 22 March 2024 the Authority determined that Tania Keane had been unjustifiably dismissed by Genuine NZ Limited.¹ Genuine NZ was ordered to pay Ms Keane three months lost wages and \$16,000 for compensation. In a further determination

¹ *Keane v Genuine NZ Limited* [2024] NZERA 169.

dated 10 June 2024 the Authority determined that Genuine NZ was to pay Ms Keane \$5,808 for the three months lost wages previously ordered to be paid and \$8,071.56 for costs.²

[2] Ms Keane's claim, lodged in the Authority, alleges that Genuine NZ has not paid her the sums ordered, that is \$16,000 for compensation, \$5,808 for lost wages and \$8,071.56 for costs, a total of \$29,879.56 (the Total Amount Payable).

[3] Ms Keane seeks a compliance order against Genuine NZ pursuant to s 137(1)(b) of the Employment Relations Act 2000 (the Act) that it pay to her the Total Amount Payable. Ms Keane also seeks compliance orders against Le-Anne Harris and Coco-Francine Chin pursuant to s 137(2) of the Act, that they take steps to ensure that Genuine NZ pays the Total Amount Payable to Ms Keane.

The Authority's investigation

[4] I investigated Ms Keane's claim for compliance orders by holding an investigation meeting on 7 July 2024.

[5] As permitted by s 174E of the Act I have not recorded all the evidence and submissions received, in this determination. I have set out my findings of fact and law, then based on this I have expressed conclusions on issues as necessary to dispose of the matter, and then I have specified the orders made as a result.

Has Genuine NZ paid any of the Total Amount Payable?

[6] That Genuine NZ owes Ms Keane the Total Amount Payable is not in dispute. Further, Genuine NZ accepts it has not paid this to Ms Keane.

[7] On the basis of this Genuine NZ, Ms Harris and Ms Chin accept that compliance orders can be made as requested by Ms Keane and they do not oppose the application by Ms Keane; they do however request that Genuine NZ be given 30 days to comply.

² *Keane v Genuine NZ Limited* [2024] NZERA 338.

Is it appropriate to make compliance orders?

[8] Given that Genuine NZ has not paid Ms Keane the Total Amount Payable and it does not oppose Ms Keane's application a compliance order is appropriate.

[9] Further, I am satisfied that Ms Harris and Ms Chin as directors of Genuine NZ are in a position to ensure payment is made by Genuine NZ. Therefore, the additional compliance orders sought by Ms Keane should be made as well.

[10] Imposition of a compliance order is a serious matter. Should Genuine NZ fail to comply with the order as set out in paragraph [12] Ms Keane is entitled to pursue the breach in the Employment Court. The Employment Court has powers to impose a fine not exceeding \$40,000, order property to be sequestered, or impose a sentence of imprisonment not exceeding 3 months.³ Alternatively, a certificate of determination may be obtained from the Authority and enforcement obtained in the District Court.

Orders

[11] Genuine NZ must comply with determinations *Keane v Genuine NZ Limited* [2024] NZERA 169 and *Keane v Genuine NZ Limited* [2024] NZERA 338, by paying \$29,879.56 to Ms Keane within 30 days of this determination.

[12] Le-Anne Harris and Coco-Francine Chin must take all necessary steps to ensure that Genuine NZ pays \$29,879.56 to Ms Keane within 30 days of this determination.

Costs

[13] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves.

[14] If the parties are unable to resolve costs, and an Authority determination on costs is needed, Ms Keane may lodge, and then should serve, a memorandum on costs within 28 days of the date of this determination. From the date of service of that memorandum Genuine NZ will then have 14 days to lodge any reply memorandum. On request by either party, an

³ Section 139 and 140(6) Employment Relations Act 2000.

extension of time for the parties to continue to negotiate costs between themselves may be granted.

Peter van Keulen
Member of the Employment Relations Authority