

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2024] NZERA 443  
3297959

BETWEEN	HINA SEHDEV Applicant
AND	FRESH 4 LESS NZ LIMITED First Respondent
AND	ASHOK ROHIT Second Respondent

Member of Authority:	Peter van Keulen
Representatives:	Paul Mathews, advocate for Applicant Ashok Rohit for the Respondents
Investigation Meeting:	On the papers and telephone conference on 24 July 2024
Submissions Received:	24 July 2024 for the Applicant 24 July 2024 for the Respondents
Date of Determination:	24 July 2024

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] In a determination dated 12 January 2024 the Authority determined that Hina Sehdev had been unjustifiably dismissed by Fresh 4 Less NZ Limited.<sup>1</sup> Fresh 4 Less was ordered to pay Ms Sehdev \$4,569.78 (gross) for lost wages and \$10,000 for compensation. In a further

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<sup>1</sup> *Sedhev v Fresh 4 Less NZ Limited* [2024] NZERA 16 (First Determination).

determination dated 28 March 2024 the Authority determined that Fresh 4 Less was to pay Ms Sehdev \$2,321.55 for costs.<sup>2</sup>

[2] Ms Sehdev's claim, lodged in the Authority, alleges that Fresh 4 Less has not paid her the sums ordered, that is \$14,569.78 in remedies and \$2,321.55 for costs.

[3] Ms Sehdev seeks a compliance order against Fresh 4 Less pursuant to s 137(1)(b) of the Employment Relations Act 2000 (the Act) that it pay to her the amounts due under the determinations. Ms Sehdev also seeks a compliance order against Ashok Rohit pursuant to s 137(2) of the Act, requiring him to take the necessary steps to ensure that Fresh 4 Less pays the amounts owing to Ms Sehdev.

### **The Authority's investigation**

[4] I investigated Ms Sehdev's claim for compliance orders by reviewing the application and hearing submissions from the representatives.

[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 Fresh 4 Less paid any of the amounts due?**

[6] Fresh 4 Less has not challenged the First Determination or the Second Determination and/or Fresh 4 Less has not sought a stay, so the amounts payable under the determinations must be paid.

[7] Mr Rohit confirmed that payment of the amounts due under the First Determination and the Second Determination have not been made by Fresh 4 Less.

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<sup>2</sup> *Sedhev v Fresh 4 Less NZ Limited* [2024] NZERA 181 (Second Determination).

### **Is it appropriate to make compliance orders?**

[8] Mr Rohit submitted that Fresh 4 Less will require time to make payments and he wishes to agree a payment plan for Fresh 4 Less.

[9] Mr Mathews on behalf of Ms Sehdev advised that there had been discussions about payments but nothing had been agreed and nothing had been paid, so Ms Sehdev wishes to have compliance orders made.

[10] As Fresh 4 Less has not paid the amounts due to Ms Sehdev she is entitled to a compliance order pursuant to s 137 of the Act.

[11] Ms Sehdev also seeks a compliance order against Mr Ashok under s 137(2) of the Act, requiring him to take the necessary steps to make Fresh 4 Less pay the amounts due to Ms Sehdev. I am satisfied that Mr Ashok as a director of Fresh 4 Less is responsible for the non-payment and is in a position to ensure payment is made by Fresh 4 Less. Therefore, the additional compliance orders sought by Ms Sehdev should be made.

[12] Imposition of a compliance order is a serious matter. Should Fresh 4 Less fail to comply with the order as set out in paragraph [14] below Ms Sehdev 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.<sup>3</sup> Alternatively, a certificate of determination may be obtained from the Authority and enforcement obtained in the District Court.

[13] Given that the compliance orders have been made, Mr Rohit should speak to Mr Mathews about a payment plan from Fresh 4 Less as soon as possible and he should also provide relevant financial information that supports any proposal.

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<sup>3</sup> Section 139 and 140(6) Employment Relations Act 2000.

## **Orders**

[14] Fresh 4 Less must comply with determinations *Sehdev v Fresh 4 Less Limited* [2024] NZERA 16 and *Sehdev v Fresh 4 Less Limited* [2024] NZERA 181, by paying \$16,891.33 to Ms Sehdev within 14 days of this determination.

[15] Mr Ashok must take all necessary steps to ensure that Fresh 4 Less pays \$16,891.33 to Ms Sehdev, within 14 days of this determination.

## **Costs**

[16] Fresh 4 Less must pay Ms Sehdev \$71.55 for the filing fee on this application.

Peter van Keulen  
Member of the Employment Relations Authority