

**Attention is drawn to the order in paragraph [4] prohibiting publication of certain information in this matter**

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

**[2024] NZERA 460  
3289919**

BETWEEN	HEALTH NEW ZEALAND formerly known as NORTHLAND DISTRICT HEALTH BOARD Applicant
AND	VXO Respondent

Member of Authority:	Eleanor Robinson
Representatives:	David Grindle, counsel for the Applicant VXO in person
Application/Submissions:	10 March 2024 from the Applicant 24 July 2024 from the Respondent
Investigation Meeting	On the papers
Determination:	30 July 2024

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**DETERMINATION OF THE AUTHORITY**

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**Application for compliance order**

[1] The Applicant, Health New Zealand (formerly known as Northland District Health Board), has applied to the Authority under s 137 of the Employment Relations Act 2000 (the Act) for an order requiring the Respondent, VXO, to comply with the terms of the costs determination given by the Authority (Determination [2023] NZERA 210).

[2] In the determination which was issued on 28 April 2023, I ordered that VXO pay to Health New Zealand the sum of \$18,000.00 as costs pursuant to clause 15 of Schedule 2 of the Act.

[3] This matter is being determined on the papers by agreement with the parties.

### **Non Publication Order**

[4] **Pursuant to clause 10 (1) of Schedule 2 of the Act, the names of the Applicant and the complainant junior doctor are prohibited from publication until this order is revoked or varied by further orders of the Authority. They will be identified only by randomised initials which have no correlation to their actual names.**

### **Brief Background**

[5] Following the issuing of the Authority's determination on costs, VXO made an application to the Employment Court to stay the Authority's costs determination. The application was declined.<sup>1</sup>

[6] Health New Zealand subsequently wrote to VXO on 10 February 2024 demanding payment of the costs sum by 4 March 2024.

[7] On 1 March 2024 VXO emailed Health New Zealand in response, claiming that it owed him \$20,757.72 in respect of a nonpayment of wages and allowances. On that basis he was refusing to pay the costs ordered in Determination [2023] NZERA 210.

[8] On 10 March 2024 Health New Zealand applied to the Authority for a Compliance Order, claiming that VXO had not paid the costs ordered by the Authority in Determination [2023] NZERA 210.

[9] On 3 July 2024, after this matter had been timetabled for submissions from VXO, he filed a removal application (3307400 VXO – Northland District Health Board). That application has yet to be determined.

### **Compliance Order**

[10] As discussed with the parties in a case management conference held on 24 June 2023, the costs compliance application which arises from Determination [2023] NZERA 210 will be addressed separately to the new application by VXO in respect of a wages and costs claim

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<sup>1</sup> *VXO v Northland District Health Board* [2024] NZEmpC 20.

{(VXO – Health New Zealand 3290939) which is set down to be investigated by the Authority on 4 February 2025. It will also be addressed separately to the two removal applications.

[11] The costs compliance application arises from a determination of the Authority. The amount ordered to be paid by the Authority is outstanding and I consider that it is not appropriate to remove this issue to the Court, especially in light of the Court declining VXO's application for a stay.

[12] I am satisfied that VXO has not complied with the terms of Determination [2023] NZERA 210. It is just in the circumstances for an order to be made requiring VXO to comply with the determination.

### **Orders**

[13] **VXO is ordered to pay Health New Zealand the sum of \$18,000.00 in respect of costs pursuant to Determination [2023] NZERA 210.**

[14] **VXO is ordered to pay the sum of \$750.00 to Health New Zealand as a contribution to its legal costs incurred in this application for the Compliance Order.**

[15] **VXO is also ordered to pay a further sum of \$71.56 to Health New Zealand in respect of the fee on the application for the Compliance Order.**

[16] **VXO is ordered to comply as ordered above within 28 days of service of this determination.**

Eleanor Robinson  
Member of the Employment Relations Authority