

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2024] NZERA 61  
3253840

BETWEEN            TIHEI KEREOPA-REREKURA  
Applicant

AND                    CRUZ BAR LIMITED  
First Respondent

AND                    BRUCE HERBERT WILLIAMSON  
Second Respondent

Member of Authority:    Antoinette Baker

Representatives:        Lawrence Anderson, advocate for Applicant  
Second Respondent in person

Investigation meeting:    1 February 2024 at Christchurch and by AVL

Submissions received:    On the day

Determination:            5 February 2024

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**DETERMINATION OF THE AUTHORITY**

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[1]    On 17 July 2023 the Authority determined<sup>1</sup> that the first respondent (CB) was to pay the applicant (Mr Kereopa-Rerekura) a total of \$18,351.86 in remedies under the Employment Relations Act 2000 (the Act) being:

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<sup>1</sup> *Tihei Kereopa-Rerekura v Cruz Bar Limited* [2023] NZERA 376.

- a. \$1,893.86 gross under s 123(1)(b)
- b. \$1,458.00 gross under s 123(1)(b)
- c. \$15,000 compensation under s 123(1)(c)(i).

[2] On 9 August 2023 the Authority ordered<sup>2</sup> CB to pay Mr Kereopa-Rerekura costs in relation to the above of \$4,500.00 together with a filing fee reimbursement of \$71.56.

[3] The second respondent (Mr Williamson) is the sole director and shareholder of CB. CB has not complied with the above orders to pay Mr Kereopa-Rerekura a total of \$22,943.42 (the orders).

[4] Mr Kereopa-Rerekura has applied for:

- (a) A compliance order under section 137(1)(b) of the Act against CB to pay the orders with interest, costs, and the filing fee on this application.
- (b) A compliance order under section 137(2) of the Act against the second respondent (Mr Williamson).

**Should the Authority order CB to comply with orders and if so, should interest be awarded?**

[5] Mr Williamson and Mr Anderson (for Mr Kereopa-Rerekura) gave brief oral submissions about this matter in a meeting. Mr Williamson referred to CB's business not going well and suggested I should be able to walk past CB's business and see that for myself. He explained to me that you cannot get 'blood out of a stone'. However, he also made it clear he was not representing CB and only attended to speak to the application against him personally under s137(2). I will return to the application under s137(2) below. I accept the

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<sup>2</sup> *Tihei Kereopa-Rerekura v Cruz Bar Limited* [2023] NZERA 431.

submission for Mr Kereopa-Rerekura that I have no evidence of financial reasons that would support not ordering compliance against CB.

[6] Mr Williamson says he disagreed that there was ‘common ground’, as stated by Mr Anderson, that there was no ‘intention’ to pay the orders and expressed concern that other enforcement options could be followed. This does not persuade me not to make a compliance order against CB. The orders have not been paid.

[7] Mr Williamson made further comment about the substantive determination. However, CB applied for a rehearing of the substantive matter, and this was declined<sup>3</sup>. The time for disagreeing with the substantive orders has passed and the orders have effectively become an amount of money owed by CB to Mr Kereopa-Rerekura, a debt recoverable.

[8] CB is ordered under s 137(2) of the Act to comply with the orders made as set out above at [1] and [2] within 28 days of the date of this determination.

### *Interest*

[9] Mr Kereopa-Rerekura applies for interest. I am able to order interest.<sup>4</sup> Mr Kereopa-Rerekura has been without the money is entitled to be paid since at least the matter for a rehearing was dismissed on 7 November 2023.

[10] I order interest on the total figure of the orders \$22,943.42. This is to be calculated from 7 November 2023, the date of the Authority Determination<sup>5</sup> that dismissed CB’s application for a rehearing, to the date the orders are paid. Interest is to be calculated in accordance with Schedule 2 of the Interest on Money Claims Act 2016.

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<sup>3</sup> *Cruz Bar Limited v Tihei Kereopa-Rerekura* [2023] 657.

<sup>4</sup> Employment Relations Act 2000, Schedule 2, cl.11.

<sup>5</sup> Above at note 3.

**Should Mr Williamson be ordered under 137(2) of the Act ?**

[11] I am not satisfied I should make a compliance order against Mr Williamson personally. I have considered the consequence of him not complying with such an order. Under s140(6) of the Act upon an application to the Employment Court, that body can order Mr Williamson (if found not to have complied with a compliance order against him) to be sentenced to imprisonment for a term not exceeding 3 months. This is a serious effect of non-compliance with a compliance order.

[12] During the meeting this issue was raised. Mr Williamson referred me to his recall of something that he thought a judge said in a case (the name of which he could not recall) which (as I understood him) was a comment that such a step (imprisonment) is unlikely to be made for debt recovery. However, the reality is that this is a serious potential consequence and to make such an order I need to be satisfied it would make a difference in getting Mr Kereopa-Rerekura what he is entitled to, payment of the orders made. I find I have little to convince me that it would. As I noted above, Mr Williamson's comments that you 'can't get blood out of a stone' and that I should see for myself CB's business is not going well do not satisfy me there is a financial reason for the orders not to be paid by CB. Mr Kereopa-Rerekura also has the same ability to enforce in the Employment Court against CB if the compliance order I have made here is not complied with. This includes sequestration of assets, again a serious consequence.

[13] Accordingly, I dismiss this part of the application that seeks a compliance order against Mr Williamson under s137(2) of the Act.

## Costs

[14] At the meeting Mr Anderson sought to add a further application relating to the earlier rehearing application to this matter that was dealt with by another Member. I have not considered this. Costs in that separate matter have already been determined.<sup>6</sup>

[15] Mr Kereopa-Rerekura asks for a contribution to his costs and the filing fee for this application. He has been successful in obtaining a compliance order against CB and should not have had to take this step. I have nothing before me to consider not following the usual tariff approach the Authority uses.<sup>7</sup> Accordingly, noting the hour-long investigation meeting, I order a quarter day costs at \$1,125.00 plus the filing fee paid which was \$71.55.

## Summary of Orders

[16] Within 28 days of the date of this Determination under a compliance order made under s137 of the Act, Cruz Bar Limited is to comply with the following orders:

- a. From the determination *Tihei Kereopa-Rerekura v Cruz Bar Limited* [2023] NZERA 376 pay Tihei Kereopa-Rerekura a total of \$18,351.86;
- b. From the determination *Tihei Kereopa-Rerekura v Cruz Bar Limited* [2023] NZERA 376 pay Tihei Kereopa-Rerekura a total of \$4,571.56.

[17] Cruz Bar Limited is to pay to Tihei Kereopa-Rerekura interest on the total of \$22,943.42. Interest is to be calculated on this sum from 7 November 2023 to the date of payment calculated according to Schedule 2 of the Interest on Money Claims Act 2016.

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<sup>6</sup> *Cruz Bar Limited v Tihei Kereopa-Rerekura* [2023] NZERA 714.

<sup>7</sup> The current first day tariff is \$4,500.00. <https://www.era.govt.nz/determinations/awarding-costs-remedies/>.

[18] Within 28 days from the date of this determination Cruz Bar Limited is to pay Tihei Kereopa-Rerekura costs of \$1,125.00 and the filing fee of \$71.55 for this application.

Antoinette Baker  
Member of the Employment Relations Authority