

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI-A-TARA ROHE**

[2026] NZERA 140
3402724

BETWEEN	KRISTIN YORSTON Applicant
AND	TRIDENT CIVIL AND CONTRACTING LIMITED First Respondent
AND	AARON TEIRI Second Respondent

Member of Authority:	Claire English
Representatives:	John Gwilliam, counsel for the Applicant No appearance for the Respondents
Investigation Meeting:	On the Papers
Submissions received:	Up to 23 December 2025 from Applicant 28 November 2025 from Respondent
Determination:	6 March 2026

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The parties entered into a Record of Settlement in accordance with s 149 of the Employment Relations Act 2000 (the Act), which was countersigned by a mediator in accordance with the Act (the ROS). The ROS required that certain payments be made to the applicant, Mr Kristin Yorston, by certain dates. The payments were not made.

[2] Mr Yorston now applies to the Authority for orders that the ROS is complied with, in accordance with s 137 of the Act. In addition, Mr Yorston seeks orders referring to a certificate of determination and District Court enforcement processes, reimbursement of the filing fee of \$71.55, and costs pursuant to this application.

[3] There has been no response from either of the respondents.

The Authority's investigation

[4] Given the narrow scope of the claims made, I directed that this matter be determined "on the papers", that is, following the filing of written submissions by both parties. Submissions were received from Mr Yorston. Although time was allowed for a response from the respondents as directed, no response has been received.

[5] Nevertheless, I consider it necessary and appropriate to proceed in the absence of respondent submissions. The first respondent is a company, with a registered address (the company). Copies of relevant documents were sent by courier to that registered address. They were also sent to the email address that Mr Teiri, the sole director of the company, had previously used to communicate with the Authority on behalf of the respondents. The registered address of the company is also the same address provided as the contact address for Mr Teiri.

[6] In all the circumstances, I am satisfied that both respondents were properly advised of these claims against them, and that I should now proceed to resolve the matter.

[7] As permitted by s 174E of the Act this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

The issues

[8] The issues requiring investigation and determination were:

- (a) Should compliance orders requiring Mr Yorston be paid the sum of \$21,459.28 in accordance with the ROS be made against the first respondent and/or the second respondent under s 137(1)(b) of the Act?
- (b) Should that sum be ordered payable within 5 working days?

- (c) Should the Authority grant leave to Mr Yorston to obtain a certificate of determination in due course, and/or to seek enforcement via the District Court?
- (d) Should Mr Yorston be reimbursed the filing fee of \$71.55?
- (e) Should Mr Yorston be entitled to costs in relation to this application?

Background

[9] A copy of the signed and countersigned ROS between the parties is in evidence. It relevantly provides that:

- a. The Director and/or the Company will pay to Mr Yorston the sum of \$21,459.28 without deduction in relation to net wage arrears, other employment arrears and legal costs (clauses 1 and 3 of the ROS).
- b. The Director alone will pay to Mr Yorston the sum of \$10,000 without deduction as a compensatory sum (clause 2 of the ROS).

[10] An initial sum was payable by the end of July 2025, with provision for weekly instalments thereafter (clause 4 of the ROS). No payments have been made by either the company or Mr Teiri. Nor have they contacted Mr Yorston to offer any explanation of circumstances.

[11] Mr Yorston says that he is entitled to the finality and certainty that compliance with the ROS would bring, and the default by the respondents is unexplained and ongoing.

[12] He says that when negotiating the ROS, it specifically provided for payment in small instalments over time, to reflect certain other obligations on the respondents. But now that the default has been ongoing, he seeks orders that the entirety of the sums payable to him under the ROS are now due and payable, eg that no further instalment payments are ordered given that the respondents have already defaulted.

Analysis

[13] The primary claim is that the Authority order that both respondents comply with the ROS, and that the Authority order certain sums are paid more-or-less immediately to Mr Yorston.

[14] Section 137 allows the Authority to order compliance with any provision of any terms of settlement that the Act provides may be enforced by a compliance order. Section 151 likewise confirms that this encompasses any agreed terms of settlement that are enforceable by the parties under s 149 of the Act. The ROS is such a settlement document.

[15] Here, there is no doubt or real dispute that the sums owing to Mr Yorston in accordance with the ROS remain outstanding, some time after he should have had the benefit of at least regular part payments.

[16] There is clearly failure to pay which would support a compliance order. The question then becomes whether a compliance order should be issued. The company remains on the Companies Register, although at the time of writing, there is also a note indicating that there has been a failure to file annual returns. However, orders can be made against it. My view is that any non-ability to pay is a matter for any subsequent enforcement action, and should not prevent the issuing of a compliance order.

[17] A compliance order against the company is made accordingly.

[18] Mr Teiri was a party to the ROS, and made a commitment to make a payment to Mr Yorston in his own name, at clause 2 of the ROS. As with the company, there has clearly been a failure to pay over an extended period of time. A compliance order should be issued against Mr Teiri also. As with the company, my view is that any non-ability to pay (of which I have no evidence) is a matter for any subsequent non-enforcement action.

[19] Having determined that compliance orders should be issued against both the company and Mr Teiri to make the payments they committed to making under the ROS, a further question arises about the scope of these orders.

[20] Mr Yorston submits that orders should be made for the payment of the sums due to him in full as a lump sum, despite the ROS providing for payment by instalment over time. There is no provision in the ROS that the sums payable by way of instalment will become due and owing in full in the event of default. Essentially, Mr Yorston is asking me to read such a term into the ROS, and order compliance by way of payment of the total lump sum in full given the event of default, despite the explicitly agreed provision for payment over time.

[21] My view is that it is not appropriate for the Authority to order by way of compliance with a ROS, a term that was not agreed to by the parties as part of the ROS. The Act refers explicitly to compliance with the agreed terms of settlement. In the present case, payment of the remaining outstanding amounts in full in the event of default in the agreed payment scheme is not an agreed term of the ROS. I decline to read into the ROS such a term, which is objectively onerous, especially in the absence of submissions from the respondents.

[22] I have also considered the submission that the respondents be directed to comply within 5 working days, rather than the standard 28 days commonly allowed by the Authority. The grounds for imposing such a short time frame are said to be in recognition of the delay that has already occurred.

[23] While I acknowledge the delay that Mr Yorston has already experienced, my view is that the default compliance period of 28 days has practical applications, including allowing copies of orders to be properly served on parties and the parties time to take practical steps to comply with those orders, rather than the time frame for compliance expiring before any such steps can reasonably occur. For this reason, I decline to abridge the time for compliance. Orders are made accordingly.

[24] As Mr Yorston has been the successful party, he is entitled to the reimbursement of his filing fee. Orders are made accordingly.

Should other orders be made?

[25] Mr Yorston requests that the Authority include in this determination what he terms “enforcement directions”, relating to a certificate of determination which may be issued by an Authority Officer under clause 26 of the Employment Relations Authority Regulations 2000. As clause 26 provides for the issuing of a certificate of determination following the issue of a substantive determination on application to the Authority, Mr Yorston may request this following the issuing of this determination but not prior to it, and enforcement action in another court is then a matter for him and his representative to consider. No further orders are made.

Orders

[26] Orders are made pursuant to s 137(1)(b) of the Employment Relations Act 2000 that:

- a. Trident Civil and Contracting Limited and Mr Aaron Teiri jointly and severally pay to Mr Kristin Yorston the sum of \$21,459.28 without deduction, and
- b. Mr Aaron Teiri pay to Mr Kristin Yorston the sum of \$10,000 without deduction,

with payment to be made by way of an initial payment of \$7,000 within 28 days of the date of this determination, followed by weekly payments thereafter of \$50, increasing to weekly payments of \$150 per week when Mr Teiri has repaid a debt owing to IRD, and increasing again to \$300 per week when Mr Teiri and the company have repaid another named employee of the company debts owed to him¹.

[27] An order is made that Trident Civil and Contracting Limited and Mr Aaron Teiri jointly and severally pay to Mr Kristin Yorston within 28 days of the date of this determination the sum of \$71.55 without deduction, being the reimbursement of the filing fee.

Costs

[28] Mr Yorston has asked that a contribution to costs be awarded in respect of this application, on the Authority's usual basis. I have considered whether I should exercise the Authority's discretion and award costs in this matter. The ROS resulted from an agreement with the assistance of Mediation Services, and this matter proceeded on the basis of written submissions only. On balance, I consider that this is not a situation where an award of costs would be appropriate, and I decline to make any award.

Claire English
Member of the Employment Relations Authority

¹ As per the agreed terms of settlement at clause 4.