

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA187
3419025

BETWEEN	SIMON HIBBERT Applicant
AND	ARRIA NLG (NZ) LIMITED First Respondent
AND	ARRIA NLG LIMITED Second Respondent

Member of Authority:	Helen van Druten
Representatives:	David Feist, advocate for the Applicant Thomas Makeig for the Respondents
Investigation Meeting:	On the papers
Submissions received:	12 February 2026 from the Applicant None from the Respondent
Determination:	27 March 2026

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Mr Hibbert claims that Arria NLG (NZ) Ltd has not complied with a Record of Settlement (ROS) signed by the parties on 28 and 29 August 2025 and certified by a mediator under s 149 of the Employment Relations Act 2000 (the Act) on 5 September 2025. Mr Hibbert also seeks costs.

[2] Although the ROS included a confidentiality clause, it is necessary for this determination to refer to details of relevant terms.

The Authority's investigation

[3] In a case management call with the parties on 11 February 2026 and subsequent directions issued, options for hearing this matter were explained to the parties and both

parties agreed that this matter could be determined ‘on the papers’. Submissions were timetabled for 18 February 2026 for Mr Hibbert and 4 March 2026 for both respondents with any reply submissions by 11 March 2026. Brief submissions were received from Mr Hibbert on 12 February 2026. No response or submissions were received from Arria NLG (NZ) Ltd or Arrria NLG Limited.

[4] As permitted by s 174E of the Employment Relations Act 2000 (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.

Inclusion of Second Respondent

[5] Mr Hibbert also seeks to join Arria NLG Ltd as Second Respondent. Arria NLG (NZ) Ltd is a subsidiary of Arria NLG Ltd, based in the United States of America.

[6] The ROS agreement is between Mr Hibbert as employee and Arria NLG (NZ) Ltd as employer. Arria NLG Ltd are referred to in the ROS only as it relates to funding and options.

[7] Clause 3 and 4 of the ROS are agreements between the employer and employee.

[8] On 26 August 2025, Sharon Daniels, as chairperson of Arria NLG Ltd (and as a director of Arria NLG (NZ) Ltd), sent a signed letter providing that “Arria Parent will guarantee the full performance of Arria NZ subsidiary under clauses 3, 4 and 5 of the Settlement Agreement”. While the copy of this letter sent to the Authority was unsigned, Mr Makeig confirmed in the case management conference that he had a signed copy of the letter.

[9] Arria NLG Ltd is joined as a second respondent on the basis of that guarantee letter.

The issues

[10] The issues requiring investigation and determination were:

- a. whether Arria NLG (NZ) Ltd breached the ROS;
- b. whether a compliance order should be issued;
- c. whether Arria NLG Ltd has liability for the breach; and
- d. whether costs should be awarded.

[11] The statement of problem also sought options orders to be clarified (as referenced in the ROS). By direction of the Authority, further information was requested on the clarification sought by Mr Hibbert if this was to be considered by the Authority. No information was received therefore this issue was not investigated. The Authority acknowledges provision of the share option agreement between Mr Hibbert and Arria NLG Ltd of 26 August 2025.

Summary of facts

[12] By email of 19 March 2026, Mr Feist confirmed that the matter did not settle at mediation.

[13] Clause 3 and 4 of the ROS provided for:

- a. payment of Mr Hibbert's unpaid compensation of NZ\$147,500 in 36 equal monthly instalments beginning no later than 31 August 2025; and
- b. payment of counsel fees of NZ\$28,000 to Employment Dispute Services in 28 monthly instalments beginning 31 August 2025.

[14] Clause 5 of the ROS provided that:

If employer fails to make one or more timely payments under this clause 3 or clause 4 after giving the employer 30 days written notice and opportunity to cure and failing a cure the employee will have the right to declare an acceleration of the remaining balance payable under this agreement.

Findings

[15] As discussed on 11 February 2026, the parties do not dispute that a settlement was reached between Mr Hibbert and Arria NLG (NZ) Ltd.

Breach of ROS

[16] The ROS is a legally binding and enforceable agreement and it is not disputed that Arria NLG (NZ) Ltd has breached clause 3 and 4 of the ROS in failing to make the agreed instalment payments since August 2025.

[17] On 30 October 2025, Mr Feist sent notice as required by Clause 5. This was sent to Mr Makeig, as representative, advising that as payments had not commenced "as requested twice and lastly on September 19, 2025" Mr Hibbert would be filing for...compliance and full payment. Despite assurances from Mr Makeig on 31 October

2025 that the money would be forthcoming on 23 November 2025, Mr Hibbert confirmed that no payments were made.

Compliance order to be issued

[18] Section 137(1)(a)(iii) of the Act gives the Authority power to order compliance where a person has not complied with any terms of settlement signed under s 149 of the Act. Having found the ROS has been breached, a compliance order should be issued to prevent recurrence.

[19] Arria NLG (NZ) Ltd has not made any attempt to pay any part of the monies owing. Mr Makeig represents both respondents and attended the case management conference so I am satisfied that he is aware that payment was not made, had the opportunity to make payments by instalment and has not done so.

[20] Mr Hibbert's representative provided a copy of the fees invoice from EDS and verification of the attempts to contact Arria NLG (NZ) Ltd and Mr Makeig for payment.

Orders

[21] Arria NLG (NZ) Ltd has breached the ROS. Pursuant to section 137(2) of the Act, within 14 days of the date of this determination, Arria NLG (NZ) Ltd must comply with the record of settlement certified on 5 September 2025, by:

- a. Paying Mr Hibbert NZD\$147,500 into his nominated bank account number; and
- b. Paying Employment Dispute Services NZD\$28,000 (incl. GST) on invoice 280905 dated 28 August 2025.

Costs

[22] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves. If the parties are unable to resolve costs, and an Authority determination on costs is needed, Mr Hibbert may lodge, and then should serve, a memorandum on costs within 21 days of the date of this determination. From the date of service of that memorandum the Respondents will then have 14 days to lodge any reply memorandum.

[23] On request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted. The parties can anticipate the

Authority will determine costs, if asked to do so, on its usual “daily tariff” basis unless circumstances or factors, require an adjustment.¹

Helen van Druten
Member of the Employment Relations Authority

¹For further information about the factors considered in assessing costs see:
<http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1>