

**IN THE EMPLOYMENT COURT  
AUCKLAND**

**AC 35/07  
ARC 18/07**

IN THE MATTER OF	an application for a compliance order
BETWEEN	BRENDA RAYMOND Plaintiff
AND	ANTHONY TERENCE PIPES AND CHERYL PIPES First Defendant
AND	DESIGNLINK LIMITED (T/A RODNEY WAYNE HAIDRESSING) Second Defendant

Hearing: 13 June 2007  
(Heard at Auckland)

Appearances: Mark Ryan, Counsel for Plaintiff  
Richard Harrison, Counsel for Defendant

Judgment: 13 June 2007

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**ORAL INTERLOCUTORY JUDGMENT OF CHIEF JUDGE GL COLGAN**

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[1] Although Brenda Raymond has been paid at least the vast majority of the compensatory money awards given in her favour, she has not been paid any of the \$16,000 that was directed for her costs in mid August 2006. She has applied under s139 of the Employment Relations Act 2000 for a compliance order to require Mr and Mrs Pipes jointly and severally to pay that sum.

[2] By their statement of defence Mr and Mrs Pipes have admitted that the sum is due but plead financial difficulties and sought to make time payment. Accordingly, on 15 May I directed, by a minute, that Mr and Mrs Pipes were to file and serve, no later than 14 days before today's hearing, affidavit evidence of their financial and

other relevant circumstances and I allowed Ms Raymond a period of seven days before today to do likewise. No affidavits have been filed by Mr and Mrs Pipes and therefore, not surprisingly, Ms Raymond has not been obliged to respond.

[3] Mr Harrison, appearing for Mr and Mrs Pipes, has indicated that he was very hopeful that today's hearing might be obviated by an agreement reached between the parties and in those circumstances affidavits were not prepared. That agreement has not been able to be reached and Mr Harrison tells me he has had difficulty obtaining instructions from his clients over the last few days.

[4] There is an additional matter that has arisen only today, at least on notice to Mr and Mrs Pipes and the Court. Mr Ryan for Ms Raymond says that a re-calculation of the amounts due to her as compensatory awards indicate that in his view the sum of \$1,644 has not yet been, but ought to be, paid by Mr and Mrs Pipes. They, however, have not had an opportunity to consider that contention and to examine the mathematics behind it as they are entitled, and will probably wish, to do.

[5] It would not be just to add that sum of \$1,644 to the undisputed sum of \$16,000 and to make a compliance order today in that respect.

[6] Mr Ryan has nevertheless applied orally to amend the application for compliance order by adding this sum to it and I am prepared to accept that as an oral application but also to allow Mr and Mrs Pipes an opportunity to respond to that.

[7] The fairest course in these difficult circumstances is as follows. I make a compliance order under s139 of the Employment Relations Act 2000 requiring Anthony Terence Pipes and Cheryl Pipes to pay the sum of \$16,000 to Brenda Raymond. Under s139(3) I must specify the time within which the order is to be obeyed. That order is to be obeyed within two weeks, that is by 2 pm on Wednesday 27 June 2007.

[8] If agreement can be reached, as Mr Harrison is confident, for a time payment of these sums between the parties, the making of that order allows for that to happen. Ms Raymond will be aware that the compliance order just made will not ensure that

the \$16,000 will become available to her if Mr and Mrs Pipes continue to hold out against a compliance order of the Court. Although enforcement proceedings can include in this Court applications for fine, sequestration orders or imprisonment, and elsewhere the range of civil remedies include bankruptcy notices, charging orders on land and other civil debt remedies, those necessarily take some time, although the starting of each of those processes is something I do not imagine Mr and Mrs Pipes would wish for.

[9] The compliance order that I have made affecting the \$16,000 provides an incentive to Mr and Mrs Pipes either to reach a satisfactory arrangement with Ms Raymond about time payment within that fortnight or, if not, requires them to pay that sum by that time.

[10] The question of the \$1,644 should come back to Court if need be on the same day, that is at 2.15 pm on Wednesday 27 June 2007, exactly two weeks hence. The application for compliance with that sum can be heard then if necessary. I encourage the parties to include in their discussions over that two week period that question of the \$1,644 that Ms Raymond claims is outstanding. The balance of the compliance application relating to that \$1,644 is therefore adjourned until 2.15 pm on Wednesday 27 June 2007 if that is required.

[11] Having heard from counsel on questions of costs and interest, by consent I reserve costs to be dealt with two weeks hence if that is still necessary.

[12] On the question of interest, Mr Ryan applies for interest on the \$16,000 owing since mid August 2006. Mr Harrison has suggested that that matter be deferred until 27 June to be dealt with. Because interest has not been claimed in the statement of claim I do not think it would be fair to make an order without the Pipes having an opportunity to know of, and respond to, that. They will do so now as a result of today's hearing but I do not propose to make an order for interest at this stage although that will now be one of the matters that can be dealt with on 27 June if not resolved before then.

[13] I add to the foregoing, that was delivered orally, that the statement of claim is now amended to add the sum of \$1,644 to the amounts claimed, and to add interest on the sum of \$16,000 from 18 August 2006 to the date of its payment at the then current 90 day bill rate, plus 2 percent.

GL Colgan  
Chief Judge

Judgment delivered orally at 2.33 pm on Wednesday 13 June 2007