

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2025] NZEmpC 155
EMPC 108/2024**

IN THE MATTER OF a challenge to a determination of the
Employment Relations Authority

AND IN THE MATTER OF applications for stay of proceedings and
leave to file a statement of defence

BETWEEN MANUKA HEALTH NEW ZEALAND
LIMITED
Plaintiff

AND TOMISLAV KALIC
Defendant

Hearing: 24 July 2025 by telephone

Appearances: G Bevan, counsel for plaintiff assisted by I Aldridge
A Halse, advocate for defendant

Judgment: 24 July 2025

**INTERLOCUTORY (NO 2) JUDGMENT OF JUDGE K G SMITH
(Applications for stay of proceeding and leave to file a statement of defence)**

[1] On 15 May 2024, a stay of proceedings was granted to Manuka Health New Zealand Ltd.¹ The company challenged a determination of the Employment Relations Authority where Mr Kalic succeeded in his claim for an unjustified disadvantage.² The stay was sought to preserve the company's appeal rights while it pursued an application to reopen the investigation in the Authority.

¹ *Manuka Health New Zealand Ltd v Kalic* [2024] NZEmpC 78.

² *Kalic v Health New Zealand Ltd* [2024] NZERA 107.

[2] The challenge was confined to an alleged material error of fact by the Authority, over how it interpreted and applied a letter dated 12 November 2019. It is sufficient for the purposes of this decision to record Manuka Health's claim that the letter, properly interpreted, undermines the outcome of the determination. At the time the stay was granted Mr Kalic had not taken any steps to respond to the challenge.

[3] In the interval between 15 May 2024 and today, the Authority has not decided the application to reopen the investigation.

[4] During a telephone directions conference on 24 July 2025, Mr Bevan made an oral application seeking to set aside the stay so that this challenge could proceed. In doing so, he accepted that it would be necessary to discontinue or withdraw the application to the Authority, because it would be inappropriate for Mr Kalic to respond to claims in different jurisdictions on the same subject matter and more or less at the same time. Mr Halse did not oppose the stay being set aside.

[5] During the same conference, Mr Halse made an oral application for leave to file and serve a statement of defence. He proposed that, if leave is granted, a statement of defence would be filed no later than 15 August 2025. Mr Bevan consented to the application and the proposed timeframe to file the statement of defence.

[6] Both applications are granted. For the avoidance of doubt, the statement of defence must be filed and served no later than **4 pm on 15 August 2025**.

[7] Costs are reserved.

K G Smith
Judge

Judgment signed at 4.50 pm on 24 July 2025