

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

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

**[2025] NZEmpC 183
EMPC 499/2024**

IN THE MATTER OF an application for disclosure before
 proceedings commence

BETWEEN LEGAL HUB LIMITED
 Applicant

AND RAVINDER BHAN SINGH
 Respondent

Hearing: 22 July 2025
 (Heard at Christchurch via Audio Visual Link)

Appearances: B Cunningham, counsel for applicant
 M Robinson, counsel for respondent

Judgment: 19 August 2025

JUDGMENT OF JUDGE K G SMITH

[1] Legal Hub Ltd is an incorporated law firm practicing in Auckland. The firm's only director, and principal, is Yashveen Singh who is a practicing solicitor.

[2] Between 26 July 2021 and 15 January 2024, Legal Hub employed Ravinder Bhan Singh as a legal executive. According to Legal Hub, the circumstances in which Ravinder Singh's employment ended were unusual and prompted an investigation. It says that Ravinder Singh was expected to return to work on 15 January 2024, after a vacation, but he failed to show up and eventually resigned in a telephone call.

[3] During January 2024, Yashveen Singh says he discovered that the firm's trust account was overdrawn. Legal Hub engaged the services of a trust account consultant to assist, initially with a month-end reconciliation but also to consider further inquiries.

[4] The consultant's review concentrated on the calendar year 2023 and identified some unusual transactions. She recommended to Legal Hub that it expand the scope of the investigation to include 2022. Despite that recommendation, the consultant's report supplied to the Court as part of this application was confined to 2023. The report concluded that trust account funds appeared to have been mishandled and/or misappropriated. The amount involved was estimated in the report but with reasonable precision down to dollars and cents.

[5] At some stage, probably in January 2024 but certainly during the consultant's review of the trust account, suspicion fell on Ravinder Singh. Yashveen Singh has reported him to the New Zealand Law Society and complained to the police.

[6] It would be remiss not to record at this stage that Ravinder Singh:

- (a) denies any mishandling or misappropriation of trust account funds;
- (b) says that if trust account funds were inappropriately handled that was by Yashveen Singh or at his direction; and
- (c) reported Yashveen Singh to the Law Society and complained about him to the police.

[7] It is common ground between the parties that a Law Society investigation has taken some time to complete. During the hearing I was advised by counsel that a referral was made by a standards committee to the Lawyers and Conveyancers Disciplinary Tribunal. What was not clear, but is irrelevant to this decision, is whether the tribunal is investigating Ravinder Singh, Yashveen Singh or both of them.

[8] The best that might be said at this stage, is that the applicant and respondent agree that there are trust account irregularities but strongly disagree over who is responsible for them.

[9] Legal Hub applied for discovery before a proceeding commences. The application sought bank account statements held by Westpac Banking New Zealand Ltd, ASB Bank Ltd, ANZ Bank New Zealand Ltd and some documents thought to be in the possession, custody or control of Ravinder Singh.

[10] The documents sought fell into four groups:

- (a) Bank statements for the period 26 July 2021 to 15 January 2024, coinciding with Ravinder Singh's employment.
- (b) A sale and purchase agreement for Ravinder Singh's home.
- (c) A certificate of registration for any vehicle owned by Ravinder Singh.
- (d) The most recent accounts (without a date range being specified) for other accounts held at ANZ Botany Downs and KiwiBank Head Office.

[11] The application was modified during the hearing and immediately afterwards. Mr Cunningham withdrew the applications as they related to Ravinder Singh's home, vehicle and KiwiBank account.

[12] After the hearing Mr Cunningham filed a memorandum withdrawing the application relating to ASB Bank, because information about the accounts held with it was supplied to Legal Hub on Ravinder Singh's behalf. Legal Hub continued the applications for discovery against Westpac and ANZ.

[13] The grounds of the (revised) application remain:

- (a) It is impossible or impractical for the intended applicant to formulate its claim without reference to the bank statements.
- (b) Legal Hub alleges that Ravinder Singh misappropriated funds from the trust account "without authority or colour of right".

- (c) Legal Hub intended to apply without notice for a freezing order (which application was made but withdrawn).
- (d) The balance of convenience and interests of justice favour making the orders.

[14] The application relied on cl 13 of sch 3 to the Employment Relations Act 2000 (the Act) and s 105 of the District Court Act 2016.

[15] The purpose of the application was to facilitate lodging a statement of problem in the Employment Relations Authority claiming various breaches by Ravinder Singh. A draft statement of problem accompanied the application.

[16] Ravinder Singh opposed the application on the grounds that can be summarised as:

- (a) The substance of the disputes between him and Yashveen Singh are being investigated by a standards committee (and now the Tribunal).
- (b) He had made allegations of impropriety and fraud against Yashveen Singh.
- (c) The volume of material provided to the Law Society about this matter is significant and includes banking material.
- (d) Independent witnesses, in evidence provided to the Law Society, claimed that Yashveen Singh put pressure on clients to receive and transfer funds into third party bank accounts.
- (e) He raised a personal grievance in March 2024 that has not been responded to.
- (f) The Law Society findings are highly likely to render this application unnecessary.

- (g) The purpose of the application is to dissipate his (Ravinder Singh's) funds.

[17] Ravinder Singh supported his notice of opposition with an affidavit, while making clear that he did not want to be involved in any ongoing dispute. Several documents were exhibited to his affidavit including some bank account statements, emails, an affidavit from another person and some trust account trial balances.

[18] Legal Hub's application was served on the banks, all of which responded informing the Court that they would abide the decision while requesting that the firm meet their reasonable expenses of complying with any order.

The Court's powers

[19] Legal Hub intends to lodge a claim in the Authority. Because of that intended claim it is relying on cl 13 in sch 3 to the Act to seek discovery:

13 Discovery

- (1) The court may, in relation to discovery that relates to proceedings brought or intended to be brought in the court, or intended to be brought in the Authority, make any order that the District Court may make under section 105 or 106 of the District Court Act 2016; and those sections apply accordingly with all necessary modifications.
- (2) Every application for an order under section 105 or 106 of the District Court Act 2016 (as applied by subclause (1)) is to be dealt with in accordance with regulations made under this Act.
- (3) Nothing in subclauses (1) and (2) limits the making of rules under section 212 or regulations under section 237.

[20] Section 105 of the District Court Act deals with pre-commencement discovery in the following way:

105 Pre-discovery

- (1) The court may, in the circumstances set out in the rules, make the orders set out in subsection (2) if—
 - (a) a person (A) has made an application for those orders in accordance with the rules; and
 - (b) it appears to the court that A is or may be entitled to bring a proceeding in the court; and

- (c) it appears to the court that another person (**B**) is likely to have or have had in B's possession, custody, or power a document or class of documents that is relevant to an issue arising or likely to arise in A's proceeding.
- (2) The court may order B—
- (a) to disclose to the court and to any other prescribed person whether the document or documents are in B's possession, custody, or power; and
 - (b) if a document has been but is no longer in B's possession, custody, or power, to disclose to the court and to any other prescribed person when B parted with it and what has become of it; and
 - (c) to produce such of those documents as are in B's possession, custody, or power to the court or to any other prescribed person.

(emphasis original)

[21] What cl 13 does not assist with is identifying the steps to take in applying for an order relying on s 105. The clause empowers the use of s 105 “with all necessary modifications”. Where matters are less clear, however, is what is provided for in cl 13(2), because every application made under the section “is to be dealt with in accordance with regulations made under this Act”.

[22] The only regulations made under “this Act” are the Employment Court Regulations 2000 but they do not deal with discovery before a proceeding begins.

[23] Usually, where a subject is not addressed in those regulations the High Court Rules 2016 fill the gap.¹ It seems anomalous that the power being exercised through sch 3 to the Act, which is derived from the District Court Act, is given effect to by applying the High Court Rules. In the end, there may be no real difficulty because the High Court and District Court Rules are not materially different on this subject. I prefer to apply the High Court Rules.

[24] Mr Cunningham's submissions relied on the High Court Rules and Mr Robinson did not object to using them.

¹ Employment Court Regulations 2000, reg 6.

[25] High Court r 8.20 provides for an order for discovery before a proceeding commences in the following way:

8.20 Order for particular discovery before proceeding commenced

- (1) This rule applies if it appears to a Judge that—
 - (a) a person (the **intending plaintiff**) is or may be entitled to claim in the court relief against another person (the **intended defendant**) but that it is impossible or impracticable for the intending plaintiff to formulate the intending plaintiff's claim without reference to 1 or more documents or a group of documents; and
 - (b) there are grounds to believe that the documents may be or may have been in the control of a person (the **person**) who may or may not be the intended defendant.
- (2) The Judge may, on the application of the intending plaintiff made before any proceeding is brought, order the person—
 - (a) to file an affidavit stating—
 - (i) whether the documents are or have been in the person's control; and
 - (ii) if they have been but are no longer in the person's control, the person's best knowledge and belief as to when the documents ceased to be in the person's control and who now has control of them; and
 - (b) to serve the affidavit on the intending plaintiff; and
 - (c) if the documents are in the person's control, to make those documents available for inspection, in accordance with rule 8.27, to the intending plaintiff.
- (3) An application under subclause (2) must be by interlocutory application made on notice—
 - (a) to the person; and
 - (b) to the intended defendant.
- (4) The Judge may not make an order under this rule unless satisfied that the order is necessary at the time when the order is made.

(emphasis original)

[26] Legal Hub's application falls for consideration under r 8.20(1)(b); the documents sought being in the control of a person who is not the intended defendant, namely the banks.

[27] There are three ingredients to a successful application under r 8.20:²

- (a) The intended plaintiff is or may be entitled to claim relief against another person.
- (b) It is impossible or impracticable for the intended plaintiff to formulate the claim without the documents sought.
- (c) There are grounds for believing that the documents may be or have been in the possession of the person concerned.

The submissions

[28] Mr Cunningham's submissions were that:

- (a) The Court has jurisdiction because the intended claim is yet to be lodged in the Authority.
- (b) What is sought is narrowly confined and is not a fishing expedition.
- (c) The bank statements are relevant because they may prove or disprove any disputed fact, namely "whether funds misappropriated or diverted from the intended applicant's trust account were paid into any of the 3 nominated bank accounts".³
- (d) It is impossible or impractical to formulate the claim without reference to the bank statements that are sought.
- (e) There are grounds to believe that the bank statements are in the control of the nominated banks.

[29] Mr Cunningham also submitted that the Authority has no power to call for evidence or information before a claim in that jurisdiction begins. He said that Legal

² See for example the discussion in *Wei v Wu* [2022] NZHC 1057; and *Truck Master Ltd v Mastagard Waste Ltd* [2014] NZHC 1676.

³ Relying on Employment Court Regulations 2000, reg 38.

Hub needed to know the contents of the bank statements to ascertain the relevance of them before the statement of problem is lodged in the Authority and that it would be at risk of “an adverse costs order” if the bank statements proved to have no relevance in the investigation itself. Further submissions were made that, without discovery, Legal Hub would be less than fully prepared for the investigation.

[30] Mr Cunningham relied on *Courage v Attorney-General* and *Rockit Packing Co Ltd v Mortimer*.⁴ In *Courage*, the bank, a non-party, agreed to provide disclosure on terms. In *Rockit*, the Court held that it has no jurisdiction to make discovery-related orders for documents to be used in the Authority once a claim has been lodged there.

[31] Mr Robinson’s response was that discovery was inappropriate and unnecessary.

The test applied

[32] The first limb of r 8.20 is satisfied, because Legal Hub is entitled to pursue its claims for alleged breaches by Ravinder Singh of the employment agreement and duties he owed to Legal Hub. As to the second limb, the test of what is impossible or impracticable under r 8.20 was stated in *Exchange Commerce Corporation Ltd v New Zealand News Ltd*.⁵ It means an inability to plead the intended claim in accordance with the requirements of the applicable rules.

[33] The rule distinguishes between documents that are needed to sustain and pursue a claim to finality and those that are needed to prepare proper pleadings.⁶ In *Truck Master Ltd v Mastagard Waste Ltd*, the High Court commented that the distinction is important.⁷ It is only if documents are needed to plead the claim that an impracticality arises.

[34] There is, of course, a difference between what is required by the High Court Rules for pleadings in that jurisdiction and the rather less formal process of lodging a

⁴ *Courage v Attorney-General* [2021] NZEmpC 203; *Rockit Packing Co Ltd v Mortimer* [2022] NZEmpC 57, [2022] ERNZ 241.

⁵ *Exchange Commerce Corporation Ltd v New Zealand News Ltd* [1987] 2 NZLR 160 (CA); and see *Hetherington Ltd v Carpenter* [1997] 1 NZLR 699 (CA).

⁶ See for example *Truck Master*, above n 2.

⁷ At [10]; and relying on *Gray v Crown Superannuation Fund* (1986) 1 PRNZ 239 (HC).

statement of problem in the Authority to enable an investigation to be conducted. In the High Court, the plaintiff must state the case in the statement of claim in a way that will inform the Court and the other party of the plaintiff's cause of action. The Court normally insists on as much certainty and particularity as is reasonable having regard to the circumstances of the case.⁸

[35] Conversely, the Authority is an investigative body. Its role is resolving employment relationship problems by establishing the facts and making a determination according to the substantial merits of the case without regard to technicalities.⁹ The Authority's investigative powers differentiate it from dispute resolution in civil proceedings in the High Court and this Court.¹⁰

[36] The investigative role of the Authority is, perhaps, reflected in the absence of prescription in the Employment Relations Authority Regulations 2000 about what is required of a statement of problem or matter when it is lodged.¹¹ Those regulations prescribe the form to be used which instructs the applicant to state details about the problem or matter to be resolved fully, fairly and clearly, provide the facts in the same way and to state how the problem or matter is asked to be resolved. The regulations and form go no further.

[37] While a problem in the Authority requires some modest formality, the level of care and precision required of a High Court pleading is not needed. Importantly, no matter before the Authority is "to be held bad", or be void, or in any way vitiated because of any informality or error of form.¹² While the Authority does have power to dismiss claims before it (or defences) that power is only exercisable if they are frivolous or vexatious.¹³

[38] What is contemplated by the Authority's regulations, therefore, is a different approach compared to pleadings in Court.

⁸ See *Truck Master*, above n 2, at [13]; and *Television New Zealand Ltd v Newsmonitor Services Ltd* (1992) 5 PRNZ 685 (HC).

⁹ Employment Relations Act 2000, s 157(1).

¹⁰ See generally the discussion in *FMV v TZB* [2021] NZSC 145, (2021) 26 PRNZ 37.

¹¹ Employment Relations Act 2000, s 158; and Employment Relations Authority Regulations, reg 5.

¹² Employment Relations Act 2000, cl 13 sch 2.

¹³ Employment Relations Act 2000, cl 12A sch 2.

[39] What is known of the intended claim? The draft statement of problem is brief but that is not unusual of claims in the Authority. It begins by stating the matter the Authority is being asked to resolve. That is, about trust account funds being allegedly misused by Ravinder Singh and, in so doing, misusing his position as an employee of Legal Hub. The draft pleading refers to Ravinder Singh owing fiduciary duties to the company.

[40] In paragraph [2] of the draft, Legal Hub sets out the facts relied on, expanding them in four sub-paragraphs. The paragraph contains a claim alleging misappropriation of funds “without authority or colour of right”. There is a claim that about \$24,000 intended to be paid to the purchasers of a property was placed into an account other than the trust account. That pleading is followed by a more general allegation that Ravinder Singh appeared to have paid other funds from the trust account into three bank accounts unrelated to any client bank account. Those accounts are listed by account number, bank and branch.

[41] The third sub-paragraph refers to the trust account consultancy report and its conclusions that a substantial sum of money has been misappropriated, considerably more than the sum in paragraph [40] above. The draft contemplates a copy of the report being attached to it, making the consultant’s investigation and conclusions available to the Authority.

[42] The third paragraph in the draft asks the Authority to resolve the employment relationship matter with:

- (a) a determination about the action arising from or relating to the employment relationship pursuant to s 161(r) of the Act; and
- (b) an order to return funds allegedly misappropriated by Ravinder Singh either as money he received without lawful justification or by restitution of such of the funds as may be found in his hands or disgorged from third parties.

[43] Mr Cunningham did not point to any particular part of the statement of problem that could not be adequately pleaded without the bank statements sought in the application.

[44] Given the anticipated pleading in the draft statement of problem, I am not persuaded that it is impossible or impractical to formulate the intended claim without the bank statements. The draft identifies causes of action in alleged breaches of the employment agreement and of duties claimed to be owed by Ravinder Singh to Legal Hub. While the consultant's report is not complete, because it recommends further investigations, it estimates the extent of the alleged irregularities. There is enough information in it to inform both the Authority and Ravinder Singh about the employment relationship problem fully, fairly and clearly.

[45] What is missing is a precise quantification of the claim, but that can be addressed during the investigation. The Authority has extensive investigative powers and, if required, can call for evidence to be provided.¹⁴

[46] Legal Hub is really searching for evidence to support the claim, which is not what r 8.20 is intended to achieve.

[47] Lastly, r 8.20(2) confers a discretion on the Court. Even if Legal Hub had established that there are some difficulties in formulating its claim, I am not persuaded that it would be appropriate to grant the orders sought. First, because it involves an application to access private bank accounts held by persons other than either Yashveen Singh or Ravinder Singh and those account holder's interests need to be considered. Second, as already mentioned, the nature of the Authority's investigative powers are more than adequate to enable the problem to be investigated and resolved.¹⁵

Outcome

[48] The application is unsuccessful and it is dismissed.

¹⁴ Employment Relations Act 2000, s 160.

¹⁵ Employment Relations Act 2000, s 160.

[49] Ravinder Singh is entitled to costs. If they cannot be agreed memoranda may be filed.

K G Smith
Judge

Judgment signed at 4.30 pm on 19 August 2025