

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

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

**[2025] NZEmpC 38  
EMPC 484/2023**

IN THE MATTER OF a declaration under s 6(5) of the  
Employment Relations Act 2000

AND IN THE MATTER OF an application to join a third party

AND IN THE MATTER OF an application by Korean Air Lines Co., Ltd  
to exclude evidence

BETWEEN GREGORY ARON LOCKE  
Plaintiff

AND RISHWORTH AVIATION ASIA PACIFIC  
LIMITED  
Defendant

Hearing: On the papers

Appearances: G Pollak and G Chandok, counsel for plaintiff  
No appearance for defendant  
S Cook, counsel for Korean Air Lines Co., Ltd

Judgment: 11 March 2025

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**INTERLOCUTORY JUDGMENT OF JUDGE KATHRYN BECK  
(Application to join a third party)  
(Application by Korean Air Lines Co., Ltd to exclude evidence)**

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[1] These proceedings involve an application for a declaration that Gregory Locke was an employee of Rishworth Aviation Asia Pacific Ltd (Rishworth) under s 6(5) of the Employment Relations Act 2000 (the Act).

[2] The plaintiff has made an application to join Korean Air Lines Co., Ltd (KAL) as a party and has named it as a second defendant. KAL has filed an appearance under protest to jurisdiction in relation to that application. The plaintiff has applied for an order to set aside KAL's appearance under protest.

[3] The plaintiff has filed affidavits from himself and Philip Gordon Howard Trow in support of his application to set aside the protest to jurisdiction. KAL has filed affidavits from Chang Soo Jin and Ko Houn Kim in support of its opposition to the application.

[4] KAL seeks an order that the affidavit of Mr Trow not be admitted into evidence. It submits that it does not contain any evidence relevant to the preliminary issue to be determined, being whether the Court is the most appropriate forum to decide the plaintiff's claims against it. It says that the affidavit is solely concerned with Mr Trow's employment by the defendant and his duties as a pilot for the company. It further notes that other than in the first paragraph, where Mr Trow notes that he is a colleague of the plaintiff, the affidavit does not refer to Mr Locke at all.

[5] The plaintiff submits that the evidence is relevant because Mr Trow's experience is a second example of what Mr Locke alleges is a triangular employment relationship. He sees it as relevant to New Zealand being the appropriate jurisdiction.

[6] I agree that Mr Trow's evidence is not relevant to the issues to be determined by the Court in this preliminary hearing. His personal dealings with KAL are exactly that, personal to him. The fact that Mr Trow allegedly had a similar relationship with Rishworth to that of the plaintiff is not relevant to the issue of whether the Court ought to set aside the appearance under protest of KAL. Mr Trow's evidence may well be relevant should the application succeed and KAL is named as a second defendant. However, it is not relevant to the question of whether the Court has jurisdiction to hear Mr Locke's claims.

[7] Accordingly, pursuant to s 189(2) of the Act, the affidavit of Mr Trow is not admitted for the purposes of the plaintiff's application to set aside the appearance under protest.

Kathryn Beck  
Judge

Judgment signed at 2.30 pm on 11 March 2025