

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

WA 74/09  
5129446

BETWEEN                    A  
   Applicant  
  
AND                                B  
   Respondent

Member of Authority:    P R Stapp  
  
Representatives:         Gary Turkington Counsel for Applicant  
   Hamish Kynaston Counsel for Respondent  
  
Joint Memorandum        8 and 27 May 2009  
  
Determination:            28 May 2009

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**DETERMINATION OF THE AUTHORITY**

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**Application for name suppression and prohibition on publication order**

[1]     The applicant filed a statement of problem in the Authority on 3 July 2008 and claimed an unjustified dismissal.

[2]     The respondent has denied the claim asserting that the applicant resigned, and was not constructively dismissed (statement in reply 6 August 2008).

[3]     When the employment relationship problem was filed there had been no mediation. A telephone conference was organised around the parties needs and held On 25 September 2008 there was a telephone conference. The matter was referred to mediation.

[4]     On going discussions between the parties meant that the matter was next considered by the Authority on a conference call held on 9 February 2009. It was agreed to adjourn the matter until 9 March 2009 because the matter involved the

possibility of other proceedings in other jurisdictions. It has been confirmed that there are proceedings concerning the applicant in another two jurisdictions. Also the parties were dealing with issues to do with discovery.

[5] On 6 March 2009 the applicant sought an adjournment of the proceedings until the outcome of the other jurisdictions is known. This was opposed by the respondent and it wanted to be heard.

[6] A planned conference call 9 March 2009 was not necessary when the respondent agreed to a further adjournment, subject to a time limit, and for the Authority to follow the matter up with the parties. The follow up occurred on 23 April and the Authority was advised that the parties' representatives were conferring and discussing a proposed joint memorandum. The joint memorandum dated 8 May 2009 has now been received and the applicant has requested a further adjournment and a prohibition on the publication of the names of the parties until the outcome of other proceedings in different jurisdictions is known.

[7] The respondent has requested certain conditions if the application is granted.

### **Determination**

[8] I have decided to put in place an order prohibiting the publication of the names of the parties in these proceedings. This is because of the interim nature of the Employment Relations Authority proceedings and the existence of other investigations yet to be determined in different jurisdictions, and to avoid any likely prejudice to either party at such an early stage where no facts relating to the employment relationship problem have been commented on yet.

[9] This order is open to be revisited and reconsidered if the matter is heard in a public investigation meeting, which has not been scheduled yet. Leave is granted to both parties to raise the matter later, and I reserve leave to take any initiative of my own on notice where the parties will be provided with an opportunity to comment and make any submissions.

[10] Also, I note that the applicant has no objections to the conditions requested by the respondent for the order prohibiting the publication of names. These conditions outlined in a memorandum dated 27 May 2009 will apply.

### **Orders of the Authority**

[11] The parties' names are prohibited from publication and by consent the conditions apply.

[12] The employment relationship problem filed on 3 July 2008 by the applicant is adjourned. Leave is granted for either party to request a telephone conference for any orders if required. In the meantime, I do not intend to start an investigation on the matter, unless I am requested to proceed in the future.

P R Stapp  
Member of the Authority