

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKĀURAU ROHE**

[2024] NZERA 640  
3266999

BETWEEN RICKY ADAMS  
Applicant  
AND R G IMPEX LIMITED  
Respondent

Member of Authority: Robin Arthur  
Representatives: Mike Harrison, advocate for the Applicant  
Zyander Tiwana for the Respondent  
Investigation Meeting: 2 and 25 October 2024 in Auckland  
Determination: 25 October 2024

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] Ricky Adams applied to the Authority for investigation of a personal grievance and wage claim arising out of how his employment as a truck driver with R G Impex Limited (RGIL) came to end in May 2023, after working over a four-month period.

**The Authority's investigation**

[2] Mr Adams did not attend today's notified investigation meeting. His representative advised Mr Adams had told him only this morning that he would not be attending because of work commitments.

[3] An earlier investigation meeting, notified for 2 October, had been postponed due to non-attendance of a witness from RGIL. From discussion on that occasion with Mr Adams and RGIL director Zyander Tiwana, both parties were aware of the importance of attending so evidence could be given and checked through questioning. Mr Adams had also been given an opportunity to provide some further detail by lodging a supplementary witness statement, which his representative had then lodged for him.

[4] The two required witnesses from RGIL, Mr Tiwana and his fellow shareholder Chamkaur Sidhu Singh, did attend today. Without Mr Adams present, however, they could not hear his evidence about what had happened and could not then give their own account or explanation in light of that oral evidence. And, in turn, Mr Adams could not then respond to what they might have said about what had happened. It was necessary to hear what all three men had to say because there were a number of points of fact in contest about what occurred during and at the end of the employment.

[5] The Notice of Investigation Meeting states that the matter may be dismissed if the applicant does not attend. The power to make that decision arises from the Authority's discretion to exercise its powers in the absence of a party and to proceed if a party fails to attend without good cause shown.<sup>1</sup>

[6] In this case Mr Adams knew, from attending the start of the investigation on 2 October, what was required. Through his representative, Mr Adams had shown no good cause for not attending. There was no information that he was unwell or some other unexpected impediment beyond his control had occurred. Mr Adams had adequate notice of the meeting and adequate opportunity to rearrange the work commitment said to be the reason for not being at the meeting.

[7] Accordingly, Mr Adams' application is dismissed without further investigation. Mr Tiwana had represented the company in responding to the application so there was no issue as to costs.

### **Observation regarding employment records**

[8] While the investigation meeting did not proceed as planned, Mr Tiwana and Mr Sidhu did each take an affirmation and briefly answered questions about what employment agreement and pay records had been provided to Mr Adams.

[9] Mr Tiwana said Mr Adams was sent an employment agreement but had not returned it, so RGIL did not have a signed employment agreement from him. Mr Tiwana also said pay records were, at that time, prepared manually and sent as a screenshot in a mobile phone message.

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<sup>1</sup> Employment Relations Act 2000, s 173(2) and Schedule 2 C1 12.

[10] Mr Tiwana said the company had subsequently improved its arrangements for providing and keeping employment agreements and now used an electronic payroll software programme for its pay records. Those changes coincided with RGIL gaining accreditation under Immigration New Zealand's Accredited Employer Work Visa programme.

Robin Arthur  
Member of the Employment Relations Authority