



# Employment Court of New Zealand

You are here: [NZLII](#) >> [Databases](#) >> [Employment Court of New Zealand](#) >> [2021](#) >> [\[2021\] NZEmpC 10](#)

[Database Search](#) | [Name Search](#) | [Recent Decisions](#) | [Noteup](#) | [LawCite](#) | [Download](#) | [Help](#)

## Anderson v Righteous Law Limited [2021] NZEmpC 10 (12 February 2021)

Last Updated: 20 February 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2021\] NZEmpC 10](#)

EMPC 216/2020

IN THE MATTER OF	an application for leave to remove a matter to the Employment Court
AND IN THE MATTER OF	applications for leave to withdraw as counsel and solicitor on the record
BETWEEN	ZINA MONICA ANDERSON Applicant
AND	RIGHTEOUS LAW LIMITED Respondent

Hearing: 10 February 2021 (by telephone conference)  
Appearances: M Dew QC and J Hansen, in support of the applications for leave to withdraw as counsel and solicitor for the applicant  
R Scott, counsel for respondent No appearance by applicant  
Judgment: 12 February 2021

### INTERLOCUTORY JUDGMENT (NO 2) OF CHIEF JUDGE CHRISTINA INGLIS

[1] Counsel for the applicant (Ms Dew QC) and solicitor on the record (Mr Sneddon) applied for orders granting leave for them to withdraw. The applications were essentially advanced on the basis that Ms Anderson's grant of legal aid had been withdrawn and the appointment as counsel terminated.

[2] Ms Anderson did not indicate a view on the applications and nor did she choose to participate in the conference convened to deal with the matter.

ZINA MONICA ANDERSON v RIGHTEOUS LAW LIMITED [\[2021\] NZEmpC 10](#) [12 February 2021]

[3] I granted the applications after hearing from counsel and considering the relevant documentation. I indicated that my reasons would follow. These are my reasons.

[4] There are no specific provisions in the [Employment Relations Act 2000](#) or the [Employment Court Regulations 2000](#) which deal with applications for withdrawal. The [High Court Rules 2016](#) (HCR) accordingly apply via reg 6 of the Regulations.<sup>1</sup> The approach to be adopted in relation to counsel was traversed in *Burgess v Monk*.<sup>2</sup> The starting point is that, as officers of the Court, counsel owe duties to complete a retainer unless good grounds exist to withdraw. The Court may, in its discretion, decline to allow withdrawal even where good grounds have been made out.

[5] I accept that there are good grounds for Ms Dew and Mr Sneddon to withdraw. Rule 4.2.1 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 defines "good cause" as including the inability or failure of the client to pay a fee on the agreed basis, or in the absence of an agreed basis, a reasonable fee at the appropriate time. Mr Snedden, in his affidavit, deposed that counsel's fees can no longer be met. It appears that Ms Anderson, having had legal aid withdrawn, unsuccessfully reviewed the decision and may now be intending to file an appeal (the timeframe for doing so has not yet expired).

[6] I am satisfied that it is appropriate in the broader circumstances of this case to grant leave to withdraw. The proceeding is at an early stage – a preliminary jurisdictional issue has been identified for hearing but has yet to be set down. The circumstances differ from those in *Burgess* (where leave to withdraw was declined, the application being made mid trial and put on the grounds of a breakdown in the relationship of trust and confidence between counsel and the client). And, as Ms Dew pointed out, Ms Anderson is a qualified lawyer, is able to represent herself and has previously done so.

1 *Noble v Ballooning Canterbury.com Ltd* [2020] ERNZ 149, [2020] NZEmpC 60, at [5].

2 *Burgess v Monk* (2017) 24 PRNZ 712, [2017] NZHC 2618.

[7] Ms Dew responsibly drew my attention to *Bron v Attorney-General*.<sup>3</sup> While that case also involved a decision by the Legal Services Agency to withdraw legal aid, that decision was made shortly before trial. The Court declined the application to withdraw and dealt with the issues that arose via the grant of a parallel application for an adjournment. In the present case the matter has yet to be set down and the broader circumstances differ.

[8] I was satisfied that good grounds existed for the applications; that it was appropriate to grant them; and did so. Declarations were made accordingly.

[9] A copy of this order must now be served on each party to these proceedings in accordance with r 5.41(3)(b) of the HCR, and the applicants must file an affidavit proving service in accordance with r 5.41(3)(c).

[10] No issue of costs arose.

Christina Inglis Chief Judge

Judgment signed at 1.15 pm on 12 February 2021

3 *Bron v Attorney-General* [2009] NZHC 1319; (2009) 20 PRNZ 460.

---

NZLII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#)

URL: <http://www.nzlii.org/nz/cases/NZEmpC/2021/10.html>