

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 104/08
5115486

BETWEEN CHRIS BERGIN, Applicant

AND CANON NEW ZEALAND
 LIMITED
 Respondent

Member of Authority: Marija Urlich

Representatives: In person, for Applicant
 Christine Meechan, for Respondent

Investigation Meeting: 19 March 2008

Determination: 19 March 2008

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Chris Bergin seeks an order from the Authority requiring his employer, Canon New Zealand Limited, provide information relating to the restructuring of his position. Canon says the information sought does not exist.

[2] Subsequent to the filing of this application Mr Bergin has been advised that he is redundant. His final day of employment with Canon is Tuesday, 25 March 2008. Mr Bergin has filed a claim of unjustified dismissal the investigation of which has been scheduled.

[3] The parties have attended mediation in an attempt to resolve this matter themselves.

[4] At the investigation meeting this morning Mr Bergin told me the information he required were the minutes of relevant meetings and the market research conducted for Canon by an external consultant.

[5] Ms Meechan submitted that all relevant information has been provided Mr Bergin and that nothing else exists. She also submitted that given Mr Bergin has received notice his employment with Canon will end next week events have moved on from the point where an application of this nature can be made.

Determination

[6] As I understand Mr Bergin's application he seeks a compliance order to obtain disclosure of documents he says are relevant to the proposed redundancy of his position. The consultation process is completed and he has been advised of the outcome.

[7] A compliance order cannot be made retrospectively for a breach which is not ongoing. This is the situation here. The restructuring process is finished. The application is declined.

[8] The Authority will require the parties to provide all relevant information for the purposes of investigating Mr Bergin's claim that his dismissal for redundancy was unjustified.

Costs

[9] Costs are reserved.

Marija Urlich

Member of the Employment Relations Authority