



Employment Court of New Zealand

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Booth v Big Kahuna Holdings Limited [2014] NZEmpC 56 (11 April 2014)

Last Updated: 26 April 2014

IN THE EMPLOYMENT COURT AUCKLAND

[\[2014\] NZEmpC 56](#)

ARC 1/14

IN THE MATTER OF a challenge to a determination of the

Employment Relations Authority

AND IN THE MATTER of an application for an extension of time

BETWEEN BRENDON RICHARD BOOTH Plaintiff

AND BIG KAHUNA HOLDINGS LIMITED Defendant

ARC 84/13

IN THE MATTER OF a challenge to a determination of the

Employment Relations Authority

AND IN THE MATTER of an application for extension of time

BETWEEN BRENDON RICHARD BOOTH Plaintiff

AND BIG KAHUNA HOLDINGS LIMITED Defendant

Hearing: On the papers filed on 9 and 10 April 2014

Appearances: T Oldfield, counsel for plaintiff

J Golightly, counsel for defendant

Judgment: 11 April 2014

INTERLOCUTORY JUDGMENT (NO 3) OF JUDGE CHRISTINA INGLIS

[1] The defendant has filed an application for an extension of time to file briefs

of evidence in these proceedings to 28 April 2013. A four day hearing is due to

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commence on 12 May 2014. The defendant's application is opposed by the plaintiff.

The parties have agreed to it being dealt with on the papers.

[2] These proceedings were the subject of a telephone directions conference in November 2013. Timetabling orders were made by agreement. The tentative hearing dates of 12 to 15 May 2014 inclusive were subsequently confirmed and advised to counsel on 29 January 2014.

[3] Briefs of evidence were filed on behalf of the plaintiff one day late by consent. It was agreed that the defendant would have an additional day. That meant that the defendant's briefs were due no later than 4 pm on 22 April 2014. The plaintiff's reply briefs were due by 4 pm on 5 May 2014.

[4] The defendant now seeks an extension to 28 April 2014 to file its briefs of evidence. The basis on which this extension is sought is set out in counsel's memorandum and appears to be based on two factors. First, that the timeframe to 22

April includes two public holidays and second, that one of the defendant's witnesses is on leave from 22 to 24 April. It is only the first point that appears to have any bearing on the ability to meet the current timetable. Given that 22 April is six working days away, the hearing dates were advised some three months ago and the matter has already been the subject of extensive evidence before the Authority, it remains unclear why an extension is required.

[5] Mr Oldfield (counsel for the plaintiff) opposes an extension of the length sought by the defendant on the basis that it would present difficulties for the plaintiff, given the timeframe within which reply briefs are due to be filed and the possibility that issues may arise in relation to the exclusion of evidence. However the plaintiff would not be opposed to a modest extension, to 23 April 2014. I consider that to be appropriate in the circumstances.

[6] The current timetabling directions will be varied as follows. The defendant is to file and serve its briefs of evidence no later than 4 pm 23 April 2014. The plaintiff is to file and serve any briefs of evidence in reply no later than 4 pm 6 May 2014.

[7] Costs are reserved.

Christina Inglis

Judge

Judgment signed at 11.45 am on 11 April 2014

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