



Employment Court of New Zealand

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Brake v Grace Team Accounting Limited [2013] NZEmpC 163 (4 September 2013)

Last Updated: 12 September 2013

IN THE EMPLOYMENT COURT AUCKLAND

[\[2013\] NZEmpC 163](#)

ARC 108/10

IN THE MATTER OF an application for stay of proceedings by the defendant

BETWEEN JUDITH BRAKE Plaintiff

AND GRACE TEAM ACCOUNTING LIMITED

Defendant

Hearing: By an application of the defendant on 13 August 2013 and by correspondence dated 29 and 30 August 2013

Representatives: Mr Warwick Reid, advocate for the plaintiff

Ms Phillipa Muir, counsel for the defendant

Judgment: 4 September 2013

JUDGMENT OF JUDGE M E PERKINS

[1] In a decision of this Court dated 13 May 2013^[1] the defendant was ordered to pay the plaintiff the following sums:

- a) \$65,000 (gross) for loss of earnings;
- b) \$20,000 compensation pursuant to s 123(1)(c)(i) of the Employment

Relations Act 2000 (the Act);

[2] In a subsequent decision of this Court dated 4 June 2013,^[2] the defendant was ordered to pay a contribution towards the plaintiff's costs of \$16,000.

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[3] The defendant has applied to the Court of Appeal for leave to appeal the decisions of this Court. In the interim the defendant has applied to this Court for a stay of execution of the judgments against it.

[4] The grounds for seeking such an order for stay of execution are set out in an application by the defendant to this Court dated 12 August 2013, together with an affidavit from the founding director of the defendant company in support.

[5] In response to the application, email correspondence has been received from the advocate for the plaintiff indicating that the plaintiff has no objection to an order for stay of execution being granted provided that the defendant pays the full amount of the judgments into an interest bearing account of the Court or the trust account of the solicitors acting for the defendant.

[6] The solicitors now acting for the defendant have indicated that they would prefer the money to be held by the Court.

[7] In view of this correspondence by consent the following orders are made:

(a) There is an order staying execution of the judgments of this Court dated 13 May 2013 and 4 June 2013;

(b) The total amounts of those judgments being \$101,000 is to be paid to the Registrar of the Employment Court at Auckland. Such payment is to be made within seven days. That sum when received is to be placed by the Registrar into an interest bearing account;

(c) Such funds are to be held by the Registrar until further order of the

Court giving directions as to how the sums are to be disbursed.

[8] Nevertheless, the defendant is to pursue its application for leave to appeal and its appeal, should leave be granted, diligently and in a timely manner. In the event that leave is not granted to the defendant or the appeal is withdrawn, the funds held together with any interest earned are to be immediately disbursed to the plaintiff.

[9] Leave is reserved for either party to apply to the Court on notice for any further directions.

M E Perkins

Judge

Judgment signed at 10.30 am on 4 September 2013

[\[1\] \[2013\] NZEmpC 81.](#)

[\[2\] \[2013\] NZEmpC 98.](#)

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