

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Tanya Louise Chapple (Applicant)
AND Department of Labour
REPRESENTATIVES Tanya Chapple in Person
Natasha Szeto for the Department
MEMBER OF AUTHORITY P R Stapp
CONFERENCE CALL 17 November 2006
FURTHER SUBMISSION 23 November 2006
DATE OF DETERMINATION 15 December 2006

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Tanya Chapple has applied to the Authority for a remedy of an irregularity to entitle her to paid parental leave. It is not opposed by the Department. This matter has come before the Authority to remedy an irregularity under s 68 of the Parental Leave and Employment Protection Act 1987 as repealed and substituted by s 17 of 2002 No 7 and s18 of the Parental Leave and Employment Protection (Paid Parental Leave for Self Employed Persons) Amendment Act 2006 (2006 No 20).

Background

[2] Ms Chapple took parental leave from her permanent position on 17 August 2004 and then returned to work on 23 November 2004.

[3] She says she contacted IRD when her son was 12 weeks old and lodged what she thought was an application for paid parental leave although there appears to be some confusion that her application may have been for family assistance or the Parental Tax Credit.

[4] In the period November 2004 until January 2006 Ms Chapple waited for her final accounts to be prepared by her accountant so that she could submit them to IRD to assist the application. She says that she then found out that apparently the form that she filled out was not related to parental leave payments. She submitted an application for parental leave payment on 10 June 2006.

[5] Her application was declined by IRD because her application was received after she had returned to work.

Resolution of the Application

[6] Ms Chapple was an employee at the relevant time. She is entitled to paid parental leave. Her failure to comply with the notice requirements under the Parental Leave and Employment Protection Act 1987 (the PLEP Act) was in good faith and reasonable in all the circumstances of the case.

[7] Ms Chapple has confirmed to the Authority that she did not receive the Parental Tax Credit in respect of the birth of her child.

[8] She has also confirmed that she continued to receive a wage during the period that she was on parental leave. Her entitlement to parental leave payments is not affected by the wage she earned during the time pursuant to s 71P of the PELP Act.

[9] Ms Chapple is entitled to paid parental leave from 17 August 2004 for the period of entitlement, as she took parental leave.

[10] Therefore under s 68 of the PELP Act I waive the irregularity and extend the time for Ms Chapple to apply for her entitlement to paid parental leave.

P R Stapp
Member of the Authority