



# Employment Court of New Zealand

You are here: [NZLII](#) >> [Databases](#) >> [Employment Court of New Zealand](#) >> [2011](#) >> [2011] NZEmpC 23

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

---

## Drapac Ltd v Peng [2011] NZEmpC 23 (21 March 2011)

Last Updated: 1 April 2011

### IN THE EMPLOYMENT COURT AUCKLAND

#### [\[2011\] NZEmpC 23](#)

ARC 4/11

IN THE MATTER OF a challenge to a determination of the

Employment Relations Authority

AND IN THE MATTER OF an application for stay of proceedings

BETWEEN DRAPAC LTD Plaintiff

AND ROBERT WENDUO PENG Defendant

Hearing: by memoranda of submissions filed on 7, 14 and 17 March 2011

Appearances: Quan Shu, agent for plaintiff

Royal Reed, counsel for defendant

Judgment: 21 March 2011

### SUPPLEMENTARY INTERLOCUTORY JUDGMENT OF CHIEF JUDGE GL COLGAN

[1] The plaintiff has applied to recall the judgment of 23 February 2011<sup>[1]</sup> and to vary its terms because of the effect upon its fiscal position of the Christchurch earthquake of 22 February 2011.

[2] At para [6] of the judgment of 23 February 2011 (incorrectly recorded at its foot as 23 March 2011) I made an order staying execution of the Authority's remedies on condition that, within seven days, the plaintiff was to pay into court the

sum of \$26,750.28.

DRAPAC LTD V PENG NZEmpC AK 21 March 2011

[3] I accept that the plaintiff's ability to do so has been affected by damage to its Christchurch premises, and thereby to its financial circumstances, although the company has paid in one-half of that sum, \$13,375.14.

[4] In these circumstances, I consider it just to vary the conditions of the order for stay made on 23 February 2011. That order will now be conditional upon payment in of the balance of the sum in dispute (\$13,375.14) by Wednesday 20 April 2011 to enable a directions conference to be scheduled on or after 20 April 2011 at which directions can be given for the hearing of the challenge.

[5] I consider there should be no order for costs on this successful application for recall and variation of the judgment.

GL Colgan  
Chief Judge

Judgment signed at 3 pm on Monday 21 March 2011

---

[1] [\[2011\] NZEmpC 16.](#)

---

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

URL: <http://www.nzlii.org/nz/cases/NZEmpC/2011/23.html>