



# Employment Court of New Zealand

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## Gaskin v Grenside WC 20/07 [2007] NZEmpC 100 (14 August 2007)

Last Updated: 18 August 2007

IN THE EMPLOYMENT COURT

WELLINGTONWC 20/07WRC 17/07

IN THE MATTER OF a challenge to a determination of the Employment Relations Authority

AND IN THE MATTER OF an application for stay of execution

BETWEEN IAN CAMDEN GASKIN  
Plaintiff

AND MICHAEL GRENSIDE  
Defendant

Hearing: 14 August 2007

(Heard at Wellington (in Chambers))

Appearances: Ian Gaskin, in person  
Graeme Ogilvie, Advocate for the Defendant

Judgment: 14 August 2007

### JUDGMENT OF JUDGE C M SHAW

[1] Mr Gaskin has filed a challenge against a determination of the Employment Relations Authority which found that he had acted in breach of his undertakings as to confidentiality about a settlement agreement he had reached with Mr Grenside. The Authority penalised Mr Gaskin \$4,000 and ordered that he pay \$1,800 costs to Mr Grenside. Mr Gaskin has applied for a stay of execution of those orders.

The stay

[2] For Mr Grenside, Mr Ogilvie opposed the making of a stay but in the alternative submitted at least the monies owing to Mr Grenside should be paid into Court until the challenge could be heard.

[3] Mr Gaskin advised that he is suffering difficult financial circumstances at the moment. He is a taxi proprietor with \$35,000 worth of debts although he does have an income of about \$3,000 a week depending upon the performance of his taxis. He says he does not have a great deal of money at his disposal although he does have

more assets than debt.

[4] Mr Gaskin did not make submissions to the Authority in support of his defence of Mr Grenside's claim against him. The Authority raised some concern about that and found that he had failed to attend without good cause. Mr Gaskin explained that his lawyer, who had been dealing with this and other legal claims by and against him, had recently died and attributes his failure to comply with his obligations in the Authority to this. Without evidence, the Court is unable to make any rulings on that but certainly there is sufficient in the determination to give Mr Grenside justifiable concern that Mr Gaskin may not participate in the Court hearing.

[5] Having weighed up Mr Gaskin's present financial situation against the need for some certainty of participation by Mr Gaskin in the challenge which he has brought to the Court, I determine that he should pay \$500 into Court as a condition of the stay of execution of the Authority's determination.

[6] I therefore make the following order:

The determination of the Authority dated 30 April 2007, WA 67/07, is stayed pending the hearing of the challenge in this matter on condition that Mr Gaskin pays \$500 to this Court by 4pm on 22 August 2007. This amount will be held in an interest-bearing account until the challenge has been determined.

#### Hearing of the challenge

[7] This will require a 1-day fixture. Mr Gaskin is acting for himself and will be the only witness. Mr Grenside is the only witness for the defence.

[8] It was explained carefully to Mr Gaskin that in addition to submissions he wishes to make to the Court he should put the evidence relating to his challenge into a brief of evidence.

[9] Mr Ogilvie raised the question of disclosure. However, on analysis, it is apparent that only three documents will need to be referred to. These are the settlement agreement between Mr Gaskin and Mr Grenside, the advertisement published in the paper by Mr Grenside, and Mr Gaskin's e-mail which was the subject of Mr Grenside's claim to the Authority.

[10] Mr Ogilvie agreed that if any further documentation is required to be produced, he will advise Mr Gaskin and the Court.

[11] The following timetable to the hearing of the challenge was agreed:

1. Mr Gaskin will file his brief of evidence in the Court and serve it on Mr Ogilvie by 28 August 2007.
2. Mr Ogilvie will file the defendant's brief of evidence in the Court and serve it on Mr Gaskin by 12 September 2007.
3. Mr Gaskin confirmed that his address for service is 190 Darlington Road, Miramar. He was told that documents sent to that address will be deemed to have been served on him.
4. The challenge is now set down for hearing at 9.30am on 19 September 2007.

**C M Shaw**  
**JUDGE**

Judgment signed at 4pm on 14 August 2007