

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 29
5428957

BETWEEN SPARTIANE GJONBALAJ
Applicant

A N D RAYMOND ARNESON
TRADING AS PBR HOTEL
Respondent

Member of Authority: T G Tetitaha

Representatives: C Hsu, Counsel for Applicant
Respondents in person

Investigation Meeting: On the papers

Submissions Received: 23 December 2013 from Applicant
13 December 2013 from Respondent

Date of Determination: 29 January 2014

INTERIM DETERMINATION OF THE AUTHORITY

- A. Pursuant to s160(1)(f) Employment Relations Act 2000, Helen Arneson is struck out as a party. The named respondent shall be Raymond Arneson trading as PBR Hotel.**
- B. Costs are reserved.**

Employment relationship problem

[1] A preliminary issue has arisen about who the applicant's employer was. The parties have agreed this matter can be dealt with on the papers. The facts about the possible employers are largely undisputed.

[2] The applicant submits Raymond Arneson trading as PBR Hotel, was her employer. She accepts the named respondent should be amended to reflect this.

[3] The respondents submit either South Pacific Cruises Limited or Raymond Arneson trading as PBR Hotel was the applicant's employer. Both parties agree Helen Arneson is not the applicant's employer, and should be struck out as a party.

[4] The respondents produced an unsigned individual employment agreement naming PBR Hotel as Ms Gjonbalaj's employer, allegedly given to her on 11 July 2012.¹ The wage and time records refer to the Paihia Beach Resort.² Correspondence from the liquidators stated South Pacific did not trade during the period of the applicant's employment, and the respondents were trading using a different entity during the period the applicant was employed.³ There is no evidence showing a relationship South Pacific Cruises Limited was the applicant's employer.

[5] Taking into account the above, the Authority determines the applicant's employer was Raymond Arneson trading as PBR Hotel. The following orders shall now issue:

- a) Pursuant to s160(1)(f) Employment Relations Act 2000, Helen Arneson is struck out as a party. The named respondent shall be Raymond Arneson trading as PBR Hotel.
- b) Costs are reserved.

T G Tetitaha
Member of the Employment Relations Authority

¹ Appendix 1, statement in reply (SIR)

² Attachments A to H Respondent's Email dated 23/12/13

³ Attachment D Applicants Submissions 23/12/13