



Employment Court of New Zealand

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HG v Employment Relations Authority [2021] NZEmpC 148 (9 September 2021)

Last Updated: 15 September 2021

ORDER PROHIBITING PUBLICATION OF NAMES OR IDENTIFYING PARTICULARS OF THE APPLICANT IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA ŌTAUTAHI

[\[2021\] NZEmpC 148](#)
EMPC 305/2021

IN THE MATTER OF	an application for review
AND IN THE MATTER OF	an application for leave to appear as intervener
BETWEEN	HG Applicant
AND	EMPLOYMENT RELATIONS AUTHORITY First Respondent
AND	NEW ZEALAND CUSTOMS SERVICE Second Respondent

Hearing: On the papers
Appearances: F Karetai Wood-Bodley, advocate for
applicant P Gunn, counsel for first
respondent
H Kynaston, counsel for second respondent
J Catran, counsel for Attorney-General
Judgment: 9 September 2021

INTERLOCUTORY JUDGMENT OF JUDGE J C HOLDEN

(Application for leave to appear as intervener)

[1] This interlocutory judgment resolves an application by the Attorney-General (in respect of the Ministry of Business, Innovation and Employment (MBIE)) for leave to intervene and be heard in this proceeding.

HG v EMPLOYMENT RELATIONS AUTHORITY [\[2021\] NZEmpC 148](#) [9 September 2021]

[2] This application arises in the context of judicial review proceedings in respect of a determination of the Employment Relations Authority (the Authority) in which the applicant (HG) appeared as second representative for GF, the applicant in the Authority.¹

[3] The parties support the Attorney-General's involvement in this proceeding.

[4] The Attorney-General says that the proceeding raises an important question of law concerning the nature and extent of the Authority's ability to refer in a determination to the conduct of the representative of a party. He also says the proceeding raises important questions of law about the nature and extent of the Employment Court's ability to review and order relief in respect of such claims. HG agrees with these submissions and intends to argue that comments made by the Authority in the determination amount to discrimination.

[5] The Attorney-General says, and HG and New Zealand Customs Service agree, the Crown has a direct and valid interest in the matters which are the subject of this proceeding and that the proceeding has the potential for wider impact beyond the circumstances of the parties themselves.

[6] I accept that the Court is likely to be assisted by the proposed intervention and that the Crown has a demonstrable interest in the proceeding.

[7] Accordingly, it is appropriate that the application be granted. Leave is granted on the following basis:

- (a) The Attorney-General is to be served by the applicant with all pleadings and documents filed in the proceeding, and a copy of any agreed bundle of documents prepared for the substantive hearing.
- (b) The Attorney-General may file and serve written submissions no later than three days before the date set for hearing.

1 *GF v New Zealand Customs Service* [2021] NZERA 382 (Member Beck).

(c) The Attorney-General may appear by counsel at the hearing but not call evidence.

(d) The Attorney-General may address the Court on his submissions at the hearing.

(e) The Attorney-General may not apply for costs against any party.

[8] The Authority has made an interim non-publication order in respect of the applicant. It is appropriate that a parallel interim non-publication order is made in the Court. Accordingly, there is an order prohibiting the publication of the identity of the applicant in this proceeding pending further order of the Court.

[9] Costs are reserved.

J C Holden Judge

Judgment signed at 2.50 pm on 9 September 2021