

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Gabrielle Harris (Applicant)

AND James Thwaite and Wellington English Language Institute Limited
and Capital Language Academy of New Zealand Limited
(Respondents)

REPRESENTATIVES No Appearances

MEMBER OF AUTHORITY P R Stapp

INVESTIGATION MEETING Scheduled for Wellington, 11 April 2006

DATE OF DETERMINATION 12 April 2006

DETERMINATION OF THE AUTHORITY

Employment relationship problem

Background

1. An earlier order of the Authority included the following details. A problem has been filed about the payment of the applicant's salary against Mr Thwaite who she believes is personally liable for the payment of her salary. He replied saying that he was not her employer, and that her employer was the Wellington English Language Institute Limited. The applicant was not clear about who actually employed her, and raised the name of another company, the Capital Language Academy of New Zealand Limited, which she says paid her.
2. Mr Derek Tyler, the agent for Mr Thwaite, consented to join both companies to the proceedings, to sort out who the employer was, and determine where any liability rested. By consent I joined the Wellington English Language Institute Limited and Capital Language Academy of New Zealand Limited to the proceedings. I exercised this discretion because Mr Tyler was representing Mr Thwaite, Mr Thwaite is a party to the proceedings and he is a named director of both companies. He would not have been unaware of the proceedings. A

new notice of investigation meeting was served on all parties for the 11 April 2006 investigation meeting.

3. Leave was granted for any further replies and responses from the companies now joined to the proceedings. The applicant's attention was drawn to information that I had obtained that Wellington English Language Institute Limited had been struck off the NZ Companies Office register.
4. In the meantime Ms Harris and Mr Tyler agreed to cooperate with any further mediation services of the Department of Labour. Mr Tyler agreed to contact the mediator Paul Stowers for assistance and this would be followed up by the Authority's support officer. Mr Tyler's authority to represent Mr Thwaite and the companies should not have been an impediment to mediation services being provided.

The investigation meeting

5. There is an indication on the file that the matter has probably settled. The non appearance of the parties today is probably explained by the matter being settled, which if this is the case, I am pleased. However, the Authority has not been formally advised of this by the applicant and the matter at the time of the scheduled investigation meeting remained open. The applicant has been contacted by the Authority's support officer with a request to determine her intentions on the application. I do not intend to investigate the matter now and the application is to be closed.

P R Stapp
Member of the Authority