

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURĀU ROHE**

[2019] NZERA 540
3062973

BETWEEN

KENNETH HENRY
Applicant

AND

COOLIT ICE COMPANY
LIMITED
Respondent

Member of Authority: Vicki Campbell

Representatives: No appearance for Applicant
No appearance for Respondent

Investigation Meeting: 19 September 2019

Determination: 19 September 2019

DETERMINATION OF THE AUTHORITY

- A. Mr Henry's application is dismissed.**
- B. Costs will lie where they fall.**

Procedural history

[1] Mr Henry lodged his statement of problem with the Authority on 5 June 2019. The statement of problem was served on Coolit Ice Company Limited (Coolit) on 26 July 2019 at its registered address for service.

[2] Mr John Wootton, a Director of Coolit contacted the Authority by email on 1 August. Mr Wootton advised that Coolit was a non-trading entity and had no assets

or liabilities. Mr Wootton advised that Mr Henry was employed by a different legal entity known as WDG New Zealand Limited and not CICL.

[3] In a further communication on 5 August Mr Wootton advised the Authority that the sole shareholding company of Coolit was Cold Resources Limited and that Cold Resources Limited went into liquidation on 29 July 2019.

[4] In an effort to clarify the issue as to the correct employing entity the Authority requested both parties to provide a copy of the employment agreement for Mr Henry. Neither party has been able to do so.

[5] A review of the companies register shows that Coolit continues to be registered and that WDG New Zealand Limited was put into voluntary administration on 24 June 2019. WDG New Zealand Limited is also a wholly owned subsidiary of Cold Resources Limited. In an email from the liquidators for Cool Resources Limited to Mr Wootton the liquidator states that Coolit is not part of the companies involved in the liquidation.

[6] The administrators for WDG New Zealand Limited notified the Authority on 18 September of its view that Mr Henry was not employed by Coolit and refused permission for Mr Henry to pursue a claim against WDG New Zealand Limited.

[7] Coolit failed to lodge a statement in reply. In order to progress the matter I directed that the matter be set down for an investigation meeting on 19 September 2019 and invited the parties to object to the proposed hearing date.

[8] No objections were received by the Authority.

[9] At the commencement time of the investigation meeting neither party attended. No notification has been received for the non-appearance.

[10] I am satisfied both parties were served the Notice of Investigation Meeting.

[11] I delayed the investigation meeting for an hour to allow time for either party to attend or notify the Authority as to reasons why they have not attended. As provided in clause 12 Schedule 2 of the Employment Relations Act 2000 (the Act) I proceeded to act fully in this matter as if the parties had duly attended.

[12] Mr Henry's application is dismissed and costs will lie where they fall.

Vicki Campbell
Member of the Employment Relations Authority