



Employment Court of New Zealand

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Hutt City Veterinary Care Limited v Barr [2016] NZEmpC 114 (2 September 2016)

Last Updated: 5 September 2016

IN THE EMPLOYMENT COURT WELLINGTON

[\[2016\] NZEmpC 114](#)

EMPC 142/2016

IN THE MATTER OF a challenge to a determination of the

Employment Relations Authority

BETWEEN HUTT CITY VETERINARY CARE LIMITED

Plaintiff

AND CECILIA BARR Defendant

Hearing: (by liquidators' memorandum filed on 26 August 2016) Representation: K Francis, counsel for the liquidator

G Ogilvie, advocate for the defendant

Judgment: 2 September 2016

JUDGMENT OF JUDGE K G SMITH

[1] The plaintiff was placed in liquidation on 26 July 2016.

[2] On 23 June 2016, Chief Judge Colgan issued a minute to the plaintiff containing directions about the proceeding. The plaintiff was informed that its statement of claim did not comply with reg 11 of the Employment Court Regulations

2000 (the Regulations) and it was directed to file and serve a compliant statement of claim within 21 days. The defendant was relieved of an obligation to file a statement of defence until and unless an amended pleading was filed. In the same minute the plaintiff was urged to take legal advice and was made aware that non-compliance with the Court's directions may result in its claim being dismissed.

[3] On 29 July 2016, Chief Judge Colgan issued a further minute recording advice received from the Registrar about the plaintiff being placed in liquidation as

has previously been noted.

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[4] On 24 August 2016, a further minute was issued by me to the liquidators (with a copy to the defendant) seeking a report about the liquidation and the liquidators' intentions, particularly as to whether the litigation might be disclaimed by the liquidators under [s 269](#) of the [Companies Act 1993](#).

[5] The liquidators have now filed a very prompt report confirming that the plaintiff has been placed in liquidation and that they have disclaimed the plaintiff's claim in the proceeding as onerous property under [s 269](#) of the [Companies Act 1993](#). The

liquidators also advised that the defendant has filed a creditors' claim in the liquidation and that claim would be considered and assessed in due course.

[6] In the circumstances described by the liquidators, it is clear that the proceeding will not be amended, nor will it proceed to trial.

[7] I consider the only appropriate course is to dismiss the proceeding and order accordingly.

[8] Given that the plaintiff is in liquidation and the defendant has not been required to take any steps in this proceeding there is no order for costs.

K G Smith

Judge

Judgment signed at 9.30 am on 2 September 2016

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