

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

[2018] NZERA Wellington 60  
3026314

BETWEEN                    J J NIVEN ENGINEERING  
   LIMITED  
   Applicant

AND                            KEITH DARYLL HOLDAWAY  
   Respondent

Member of Authority:    Trish MacKinnon

Representatives:        Alistair Hall, Counsel for Applicant  
   Greg Cain, Counsel for Respondent

Investigation Meeting:   28 March 2018

Determination:            12 July 2018

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**CONSENT DETERMINATION OF THE AUTHORITY**

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[1]    Following an investigation meeting in March 2018 JJ Niven Engineering Limited and Mr Holdaway were directed to mediation on an urgent basis. The parties advise that, after productive mediation and ongoing discussions, they have successfully resolved the matters in dispute between them with no issue as to costs.

[2]    The parties have asked me to incorporate the terms of settlement they have agreed into a consent determination of the Authority. The terms of settlement are full, final and binding. By consent, the terms of their agreement are also the orders of the Authority in this matter.

[3]    All orders previously made by the Authority in this matter will by consent cease to have effect.

[4]    The following orders are made by consent:

- a. The Respondent will not, directly or indirectly, use or otherwise take advantage of, for his own benefit or for the benefit of any third party, any confidential or proprietary information or intellectual property belonging to the Applicant.
- b. The Respondent shall comply with the "disclosure of confidential information" clause of his employment agreement with the Applicant.
- c. The Respondent shall immediately return all property belonging to the Applicant that is in his possession, including confidential or proprietary information or intellectual property, whether in hard copy or electronic form. The Respondent shall comply with this order on an ongoing basis, which means if he discovers that he is in possession of any such confidential or proprietary information or intellectual property, he will immediately return it to the Applicant.

[5] This determination is enforceable under s. 137(1)(b) of the Employment Relations Act 2000.

**Trish MacKinnon**  
Member of the Employment Relations Authority