

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2021] NZERA 101
3109232

BETWEEN	KEY INDUSTRIES LIMITED Applicant
AND	CAMPBELL PERRIN Respondent

Member of Authority: Vicki Campbell

Representatives: Applicant in person
Nic Scampion, counsel for Respondent

Investigation Meeting: 12 March 2021

Determination: 12 March 2021

PRELIMINARY DETERMINATION OF THE AUTHORITY

- A. Mr Perrin is ordered to download all documents received through a drop box onto a USB device and provide the USB device to Key Industries Limited by no later than Tuesday, 16 March 2021.**
- B. Mr Perrin is ordered to lodge and serve a sworn affidavit in accordance with the undertakings given in June 2020. His affidavit must address each of the 11 points set out in the list he received from Key Industries Limited on 10 March 2021. The affidavit is to be lodged and served by no later than 1 April 2021.**

C. The parties are directed to mediation.

D. Costs are reserved.

Employment relationship problem

[1] Mr Perrin was dismissed by reason of redundancy on 7 June 2020. Key Industries Limited alleges Mr Perrin has breached the terms of his employment agreement, has misappropriated and misused confidential information and sought to use confidential information to set up in business in competition to Key Industries Limited.

[2] A large number of documents have been provided to Key Industries by Mr Perrin together with undertakings as to his future conduct. Key Industries Limited has formed the view that there are still documents which have yet to be provided by Mr Perrin. It also claims Mr Perrin has not met his obligations under his written undertakings. Key Industries Limited seeks orders from the Authority to address these outstanding issues.

[3] A preliminary investigation meeting was convened to address the issue of the outstanding documents and the outstanding issues with respect to the undertakings provided by Mr Perrin.

[4] This determination confirms the orders made during the course of the preliminary investigation meeting held today.

[5] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has stated findings of fact, expressed conclusions on issues necessary to dispose of the matter and specified orders made as a result. While I have not referred to all the information received I have carefully considered everything.

Drop box documents

[6] During a forensic examination of Mr Perrin's devices a number of documents were discovered which are relevant to these proceedings. Those documents were provided to Mr Perrin's then counsel who has confirmed they are available on a drop-box.

[7] Mr Perrin is ordered to download all documents contained in the drop-box onto a USB device and provide the USB device to Key Industries Limited by no later than Tuesday, 16 March 2021.

Affidavit

[8] In undertakings provided by Mr Perrin in June 2020 he undertook to provide a sworn affidavit setting out specified information. That affidavit was not provided in accordance with the undertakings.

[9] During a case management call with the parties on 20 November 2020 Mr Perrin was directed to meet his commitments in his undertakings by lodging a sworn affidavit in accordance with the undertakings made by him in June 2020.

[10] On or about 1 December 2020 Mr Perrin lodged with the Authority an affidavit which fell short of the requirements he had committed to in his undertakings.

[11] On 10 March 2021 Key Industries Limited emailed Mr Perrin a document setting out 11 points which need to be addressed by Mr Perrin in order to satisfy his undertakings made in June 2020. Key Industries Limited did this to provide some assistance to Mr Perrin in meeting his obligations in circumstances where he is now representing himself.

[12] Mr Perrin is ordered to lodge and serve a sworn affidavit in accordance with the undertakings given in June 2020. His affidavit must address each of the 11 points set out in the list he received from Key Industries Limited on 10 March 2021. The affidavit is to be lodged and served by no later than 1 April 2021.

Further mediation

[13] The production of the additional documents may be of assistance to Key Industries Limited in better assessing the extent of Mr Perrin's activities and may give rise to an amended statement of problem.

[14] I indicated during the preliminary investigation meeting that I may be of a mind to direct the parties to further mediation following the disclosure of the additional documents.

[15] Section 159(1)(c) of the Act requires the Authority, in the course of investigating any matter, consider from time to time as it thinks fit, whether to direct the parties to use mediation.

[16] Having considered whether mediation would be of assistance I am of the opinion that will would and accordingly the parties are directed to mediation which is to take place after 1 April 2021 and before 30 June 2021.

Costs

[17] Costs are reserved.

Vicki Campbell
Member of the Employment Relations Authority