

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2011] NZERA Auckland 74
5309185

BETWEEN	CHLOE KING Applicant
AND	PHYSIO REHAB GROUP LIMITED First Respondent
AND	TEPID BATHS PHYSIOTHERAPY LIMITED Second Respondent
AND	COLLEGE RIFLES PHYSIO & REHAB CENTRE LIMITED Third Respondent

Member of Authority: Alastair Dumbleton

Representatives: Peter King, counsel for Applicant
Karen Sutton, advocate for Respondents

Reopening of
Investigation: 25 February 2011

Determination: 25 February 2011

DETERMINATION OF THE AUTHORITY

Reopening of investigation

[1] Pursuant to clause 4 of Schedule 2 of the Employment Relations Act 2000, the Authority has reopened its investigation into this matter to set the record straight as to the identity of one of the respondent companies involved in it.

[2] In its determination of 23 December 2010 (under AA528/10) the Authority made orders in favour of the applicant Ms King to resolve her employment relationship problem. Those orders, for payment of compensation, lost wages and a penalty, were against the first and third respondent companies. The second

respondent Tepid Baths Physiotherapy Limited (TBPL) was found not to have been an employer of Ms King as it had not become registered as a company until 21 May 2010. Ms King's employment had ended a month earlier.

[3] Some correction to the determination is needed because there was during Ms King's employment another company registered under the name TBPL. It was incorporated in that name on 8 December 1998 and given the Companies Office file number 937282, but its name was changed from 25 March 2010 to Albert Street Physio Limited. The second respondent is a different company which was given the number 2484605 when it became registered in May the same year.

[4] As recorded in the determination, Ms King received a letter of termination dated 18 March 2010 signed by Ms Karen Sutton and another person as directors of "Tepid Baths Physio Ltd & Physio Rehab Group Ltd." There was no company named Tepid Baths Physio Ltd. Ms Sutton, who is a director of the two separate companies that have at different times been called Tepid Baths Physiotherapy Limited and who is also a director of the first and third respondent companies, apparently abbreviated part of that name in writing the letter.

[5] The Authority's investigation was commenced after Ms King's original solicitors lodged a statement of problem on her behalf on 19 October 2010. The two respondents to the claim were named as "Physio Rehab Group Limited" and "Tepid Baths Physio Limited". There was no company under the name of the second respondent, strictly. If it was the first in time registered company 937282 intended to be referred to, the respondent should have been named as "Albert Street Physio Limited (formerly named Tepid Baths Physiotherapy Limited)." If it was the second in time registered company 2484605 intended to be referred to, it should have been named in full as Tepid Baths Physiotherapy Limited.

[6] Being a director of both companies that have used the name TBPL, Ms Sutton no doubt had a good commercial reason for transferring the name from one company to another. The timing of that seems to have had something to do with the pending closure of the Tepid Baths and search for new premises in Albert Street.

[7] In its determination the Authority made no orders against the second respondent TBPL. The Authority has been advised that the orders it did make against

the first and third respondent companies have now been satisfied and any issue as to costs has also been resolved.

[8] The determination of 23 December 2010 is to be read in conjunction with this one.

A Dumbleton
Member of the Employment Relations Authority