



Employment Court of New Zealand

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Leota v Parcel Express Limited [2019] NZEmpC 162 (13 November 2019)

Last Updated: 18 November 2019

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2019\] NZEmpC 162](#)

EMPC 167/2019

IN THE MATTER OF	an application for a declaration under s 6(5) of the Employment Relations Act 2000
AND IN THE MATTER OF	an application for leave to file further evidence
BETWEEN	MIKA LEOTA Plaintiff
AND	PARCEL EXPRESS LIMITED Defendant
AND	FREIGHTWAYS LIMITED Intervener

Hearing: 13 November 2019 (by telephone)

Appearances: M Pollak, counsel for plaintiff
P Robertson, counsel for defendant

Judgment: 13 November 2019

INTERLOCUTORY JUDGMENT (NO 3) OF CHIEF JUDGE CHRISTINA INGLIS

(Application for leave to file further evidence)

[1] These proceedings are set down for a three-day hearing commencing next Wednesday, 20 November 2019. Yesterday the defendant sought to file a supplementary brief of evidence, together with six additional documents for the hearing. The plaintiff opposed the filing of these documents. His opposition was principally directed at the fact of late filing, although additional issues as to relevance in respect of the supplementary brief of evidence were also raised.

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[2] I heard from counsel this morning on these two issues. I granted leave to the defendant to file the supplementary brief of evidence. That is because I was satisfied that it was in the broader interests of justice to do so. Its contents may be relevant to the matters at issue in the proceedings and, if so, may assist the Court. While I had considerable sympathy with the frustrations expressed by counsel for the plaintiff in respect of late filing, I was not able to identify any real prejudice in admitting the supplementary brief, albeit at this late stage. And counsel for the plaintiff accepted that the evidence could be dealt with by way of cross-examination and submission.

[3] I also allowed the six supplementary documents to be incorporated as part of the bundle of documents for the hearing. They comprise business transactional records which Mr Robertson says have only recently come to the attention of the defendant. I understood counsel for the plaintiff to agree that those documents too could be dealt with in the usual way at the hearing and there was no broader prejudice to the plaintiff in allowing them in.

[4] Costs on this interlocutory matter are reserved.

Christina Inglis Chief Judge

Judgment signed at 4 pm on 13 November 2019

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