



Employment Court of New Zealand

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Mikes Transport Warehouse Limited v Vermuelen [2021] NZEmpC 42 (31 March 2021)

Last Updated: 7 April 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU

[\[2021\] NZEmpC 42](#)
EMPC 406/2020

IN THE MATTER OF	a challenge of a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for stay of execution
BETWEEN	MIKES TRANSPORT WAREHOUSE LIMITED First Plaintiff
AND	MODERN TRANSPORT ENGINEERS LIMITED Second Plaintiff
AND	WAYDE VERMUELEN Defendant

Hearing: On the papers
Appearances: S A McKenna, counsel for first and second plaintiffs A Mapu, advocate for defendant
Judgment: 31 March 2021

CONSENT JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS

(Application for stay of execution)

[1] In a determination of 3 December 2020,¹ the Employment Relations Authority (the Authority) held that the defendant had been unjustifiably dismissed and ordered the first plaintiff to pay him, by way of compensation, the sum of \$3,000 under s 123(1)(c)(i), and ordered the second plaintiff to pay the sum of \$13,747.50 under s

¹ *Vermuelen v Mikes Transport Warehouse Limited and Modern Transport Engineers Limited*

[\[2020\] NZERA 500 \(Member Campbell\)](#).

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123(1)(b) and the sum of \$10,000 under [s 123\(1\)\(c\)\(i\)](#) of the [Employment Relations Act 2000](#). The plaintiffs have challenged that determination.

[2] The defendant filed an application for compliance orders in the Authority. That application will be opposed by the plaintiffs. The representatives understand that the application is unlikely to be advanced in the Authority for a number of months. In the circumstances, the parties have requested the Court to deal with the issue by way of a consent judgment, staying execution of the determination pending resolution of the challenge now before the Court. I am satisfied that it is

appropriate for such an order to be made, subject to conditions.

[3] There will be an order staying execution of the Authority's determination on the following conditions:

- (a) Within 14 days from the date of this judgment, the plaintiffs will deposit the sums ordered to be paid by the Authority, referred to in [1], into the Employment Court.
- (b) The amounts referred to in [1] are to be held by the Registrar in an interest-bearing account and will be paid out, with interest, on further order of the Court or on receipt by the Court of a joint memorandum signed by both parties.
- (c) If the amounts referred to in [1] are not paid into Court within the 14 days allowed, the order staying execution lapses and the defendant may return to the Court for further orders.
- (d) The challenge is to be pursued diligently.

[4] No issue of costs arises.

Christina Inglis Chief Judge

Judgment signed at 3 pm on 31 March 2021

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