



Employment Court of New Zealand

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Miller v Commissioner of Police [2019] NZEmpC 8 (4 February 2019)

Last Updated: 8 February 2019

IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA ŌTAUTAHI

[\[2019\] NZEmpC 8](#)

EMPC 355/2018

IN THE MATTER OF a challenge to a determination of the
 Employment Relations Authority
AND IN THE MATTER of an application for stay of execution
AND IN THE MATTER of an application to extend time to
 challenge the costs determination
BETWEEN DENE MILLER
 Plaintiff
AND COMMISSIONER OF POLICE
 Defendant

Hearing: On the papers and by telephone 4 February
 2019
Appearances: A Oberndorfer, advocate for plaintiff G Cain,
 counsel for defendant
Judgment: 4 February 2019

INTERLOCUTORY JUDGMENT OF JUDGE K G SMITH

(Application for a stay of execution of a determination and to extend time)

[1] On 10 October 2018 the Employment Relations Authority issued a determination resolving personal grievances, and other proceedings, brought by Mr Miller against the Commissioner of Police by dismissing them.¹ Separately, on 5 December 2018 the Authority dealt with an application for costs arising from its substantive determination the result of which was an order that Mr Miller pay to the Commissioner \$8,000 as a contribution to the costs which had been incurred.²

1 *Miller v Commissioner of Police* [2018] NZERA Christchurch 146.

2 *Miller v Commissioner of Police* [2018] NZERA Christchurch 179.

DENE MILLER v COMMISSIONER OF POLICE [\[2019\] NZEmpC 8](#) [4 February 2019]

[2] Mr Miller has challenged both determinations. He did not challenge the Authority's costs determination within the time allowed by [s 179\(2\)](#) of the [Employment Relations Act 2000](#) and has now applied for an extension of time to do so. The delay was explained as having occurred through oversight, at a time when the parties' representatives had concluded an agreement for a stay of execution of the costs determination by consent. The delay has been short, the reason for the omission has been adequately explained and the Commissioner's position remains protected by a proposed payment into Court. In those circumstances, the application is granted.

[3] The parties have reached agreement about a stay of execution of the Authority's costs determination pending the outcome of Mr Miller's challenge to both determinations.

[4] By consent the following orders are made:

(a) The costs determination of the Authority is stayed pending further order of the Court subject to the following conditions:

(i) The amount of the costs award, being \$8,000, is to be paid to the Registrar of this Court no later than 11 February 2019. If payment is not made by that date this order lapses.

(ii) The sum in [4](a)(i) is to be held by the Registrar in an interest-bearing account until further order of the Court or unless the parties agree otherwise in writing.

(b) There is no order as to costs.

K G Smith Judge

Judgment signed at 5.00 pm on 4 February 2019

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