



Employment Court of New Zealand

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Morgan v Tranzit Coachlines Wairarapa Limited [2019] NZEmpC 142 (10 October 2019)

Last Updated: 15 October 2019

IN THE EMPLOYMENT COURT OF NEW ZEALAND WELLINGTON

I TE KŌTI TAKE MAHI O AOTEAROA TE WHANGANUI-A-TARA

[\[2019\] NZEmpC 142](#)

EMPC 262/2018

IN THE MATTER OF	proceedings removed in part from the Employment Relations Authority
AND IN THE MATTER	of an application for leave to extend time to file a notice of opposition to an application for further orders
BETWEEN	PAUL MORGAN Plaintiff
AND	TRANZIT COACHLINES WAIRARAPA LIMITED Defendant

Hearing: On the papers

Appearances: G Clarke, advocate for the Plaintiff
R Gordon, counsel for the
Defendant

Judgment: 10 October 2019

INTERLOCUTORY JUDGMENT OF JUDGE B A CORKILL

(Application for leave to extend time to file a notice of opposition to an application for further orders)

[1] On 28 May 2019, Chief Judge Inglis issued a judgment finding that individual employment agreements entered into by Mr Paul Morgan with Tranzit Coachlines Wairarapa Ltd (Tranzit), commencing 26 January 2015 and 29 January 2018 did not comply with s 66 of the [Employment Relations Act 2000](#) and were ineffective.¹ Leave was reserved for either party to apply on reasonable notice for any consequential orders relating to leave entitlements.

¹ *Morgan v Tranzit Coachlines Wairarapa Ltd* [\[2019\] NZEmpC 66](#).

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[2] On 30 September 2019, Mr Morgan applied for further orders, pursuant to leave reserved.

[3] On 4 October 2019, Tranzit applied for an extension of time to file a notice of opposition to 28 October 2019, because Mr Gould, counsel who had appeared originally for Tranzit, and who has had an in-depth involvement in this matter, is on sabbatical leave.

[4] This application is opposed, primarily on the grounds of undue prejudice. Mr Clarke, representing Mr Morgan, says that attempts have been made to take the outstanding issues to mediation, but Tranzit has not agreed to such an initiative, which suggests it has not acted in good faith. Moreover, a pressing issue, as far as Mr Morgan is concerned, is the availability to him of four weeks of annual leave later this year.

[5] Somewhat ironically, this is the second time the Court has had to consider an application to extend time. Mr Morgan, shortly before the substantive hearing, sought leave to file a reply to positive defences, which was opposed by Transit.

[6] In her judgment granting leave on that occasion, Chief Judge Inglis set out the well accepted principles that apply to an application to extend time, such as the reasons for any delay, the length of the delay, any prejudice, and the potential impact on rights and liabilities. At the end of the day, the assessment was one involving the overall interests of justice.²

[7] Applying those principles, I am satisfied that the reason for the delay has been explained, and the period of extension sought is not unreasonable.

[8] Mr Morgan's concern as to upcoming leave is understandable, and that issue should be addressed as soon as possible. The Court is told that Mr Gould will return from leave on 14 October 2019. I am satisfied that it is in the interests of justice to extend time for the filing of Transit's notice of opposition to 21 October 2019.

2 Morgan v Transit Coachlines Wairarapa Ltd [2019] NZEmpC 17.

[9] The Registrar is to arrange a telephone directions conference for as soon as possible thereafter so as to advance the outstanding issues. The Court will need to hear from the parties as to whether a direction as to prompt mediation should be made, if they have not by then agreed to do so.

[10] Costs are reserved.

B A Corkill Judge

Judgment signed at 3.00 pm on 10 October 2019