



Employment Court of New Zealand

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Ngawaka v Global Security Solutions Limited [2021] NZEmpC 140 (23 August 2021)

Last Updated: 27 August 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2021\] NZEmpC 140](#)

EMPC 343/2020

IN THE MATTER OF a challenge to a determination of
the Employment Relations
Authority
AND IN THE MATTER of an application for leave to file
further evidence
BETWEEN RIO NGAWAKA
Plaintiff
AND GLOBAL SECURITY SOLUTIONS
LIMITED
Defendant

Hearing: On the papers

Appearances: R Ngawaka, plaintiff in person
R Johnson, agent for
defendant

Judgment: 23 August 2021

INTERLOCUTORY (NO 2) JUDGMENT OF JUDGE K G SMITH

(Application for leave to file further evidence)

[1] Rio Ngawaka's challenge to a determination of the Employment Relations Authority is scheduled to be heard on 7 September 2021.¹ In anticipation of that hearing directions have been previously issued timetabling the exchange of statements of anticipated evidence and for the production of a bundle of relevant documents. The last step taken to comply with those directions was when Mr Ngawaka filed his statement of evidence in reply on 6 July 2021.

¹ *Ngawaka v Global Security Solutions Ltd* [\[2020\] NZERA 413](#) (Member Craig).

RIO NGAWAKA v GLOBAL SECURITY SOLUTIONS LIMITED [\[2021\] NZEmpC 140](#) [23 August 2021]

[2] Mr Ngawaka's former employer, Global Security, has now applied for leave to file a statement of anticipated evidence from Gavin Erasmus. Leave is required because Mr Erasmus' anticipated evidence was not filed before a notice of hearing was issued to the parties on 24 June 2021. In accordance with the directions previously issued, no step is able to be taken by the parties once the notice of hearing has been issued except by leave of the Court.

[3] The grounds of Global Security's application are that, while Mr Erasmus was a potential witness, it had been unable to contact him in time to comply with the timetabled directions. The evidence anticipated to be given by Mr Erasmus was about investigations he either started, or was involved in, that immediately preceded Mr Ngawaka's employment ending.

[4] The application for leave was served on Mr Ngawaka but he has not filed a notice of opposition or otherwise indicated that he is opposed to it.

[5] I accept that Mr Erasmus' evidence will be relevant to this proceeding and it is, therefore, in the interests of justice that

Global Security be provided with an opportunity to call him as a witness. It is, however, vital that Mr Ngawaka have as much advance notice as is possible of the extent of Mr Erasmus' anticipated evidence.

[6] The application is granted subject to a statement of Mr Erasmus' anticipated evidence being filed and served no later than **4 pm on 31 August 2021**.

[7] Costs are reserved.

Judgment signed at 2.45 pm on 23 August 2021

K G Smith Judge

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