



New Zealand Employment Relations Authority Decisions

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Nisbett v Saturn 6 Limited (Auckland) [2017] NZERA 306; [2017] NZERA Auckland 306 (3 October 2017)

Last Updated: 14 October 2017

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2017] NZERA Auckland 306
3003606

BETWEEN Peter Russell Nisbett

Applicant

AND Saturn 6 Limited

Respondent

Member of Authority: Jenni-Maree Trotman

Representatives: No appearance, for Applicant

No appearance, for Respondent

Investigation Meeting: 15 August 2017

Determination: 03 October 2017

DETERMINATION OF THE EMPLOYMENT RELATIONS AUTHORITY

A. The Authority orders the reopening of this investigation under Schedule 2, Clause 4 of the [Employment Relations Act 2000](#).

B. Determination [2017] NZERA Auckland 241 is set-aside with the following replacement orders being made:

a) The Applicant's claim is dismissed.

Employment Relationship Problem

[1] The Applicant, Peter Nisbett, claims he was unjustifiably dismissed by the Respondent on 19 January 2017. He further claims the Respondent breached its duties of good faith.

[2] An investigation meeting was set down for 15 August 2017. Neither party attended. A determination was thereafter issued in which I dismissed the matter and awarded costs against Mr Nisbett pursuant to Regulation 21 of the [Employment Relations Authority Regulations 2000](#).

[3] Following the issue of my determination Mr Nisbett provided a reasonable explanation for his non-attendance at the investigation meeting. As a result I ordered the investigation be reopened¹ and sought further comment from Mr Nisbett. That has now been received and results in this determination which replaces my earlier determination.

Determination

[4] Mr Nisbett advises the Respondent has no assets. In addition, the Respondent was placed into liquidation on 8 September 2017.

[5] Section 248 (c)(i) of the Companies Act 2003 provides that, from the commencement of the liquidation of a company,

unless the liquidator agrees or the Court orders otherwise, a person must not commence or continue legal proceedings against the company.

[6] Mr Nisbett has not received the Liquidator's consent to continue with these proceedings. In any case, he advises he does not wish to continue with his claim.

[7] For these reasons Mr Nisbett's claim cannot proceed. It is therefore dismissed. There is no order as to costs against either party.

Jenni-Maree Trotman

Member of the Employment Relations Authority

1 Schedule 2, Clause 4 of the [Employment Relations Act 2000](#)

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