



# Employment Court of New Zealand

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## PPCS Limited v Vakapuna WC 28/07 [2007] NZEmpC 155 (27 November 2007)

Last Updated: 22 December 2007

### IN THE EMPLOYMENT COURT

WELLINGTONWC 28/07WRC 35/07

IN THE MATTER OF a challenge to a determination of the Employment Relations Authority

AND IN THE MATTER OF an application for stay of proceedings

BETWEEN PPCS LIMITED

Plaintiff

AND VILIAMI VAKAPUNA

Defendant

Hearing: 27 November 2007

(Heard at Wellington (by telephone conference))

Appearances: T P Cleary, Counsel for the Plaintiff

S M Moran, Counsel for the Defendant

Judgment: 27 November 2007

### ORAL JUDGMENT OF JUDGE C M SHAW

[1] In a determination dated 21 November 2007 (WA 154/07), the Employment Relations Authority ordered that Mr Vakapuna be reinstated to his previous position or a position not less advantageous. The plaintiff opposes the reinstatement and has filed a challenge to that determination. It has also applied for a stay of the reinstatement order and in addition has made an application for urgency and abridgement of time for filing a statement of defence. The defendant has not yet filed any papers but Miss Moran has instructions to oppose the applications.

[2] A phone conference was held concerning the stay application. Miss Moran advises that Mr Vakapuna was intending to start work again tomorrow pursuant to the Authority's order. As a substantive hearing of the challenge will not be able to be heard until February 2008, it is necessary to determine the stay application in the meantime.

[3] Mr Cleary is to file a draft affidavit from the plaintiff's plant manager, Mr Kealey. This will be sworn as soon as Mr Kealey is available in the next day or so.

[4] Mr Cleary advises that the plaintiff has agreed that Mr Vakapuna will be paid his normal wages from the date

of the determination and that mediation has been arranged for Monday 3 December 2007. In the light of those two matters, it is appropriate for a short interim stay to be granted.

[5] The proceedings are adjourned to 9am on Tuesday, 4 December 2007 for a phone conference. At that stage the parties can advise the outcome of the mediation. If the mediation has not been successful in settling the matter, then the substantive application for stay, urgency and abridgment of time will be heard as soon as the Court and the parties are available.

**C M Shaw**  
**JUDGE**

Judgment signed at 9.30am on 28 November 2007

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