

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Thomas Reid (Applicant)
AND Tradestaff BOP Limited (Respondent)
REPRESENTATIVES Sam Kennedy, Advocate for Applicant
Phil Butler, Advocate for Respondent
MEMBER OF AUTHORITY Ken Anderson
INVESTIGATION MEETING 5 December 2005
SUBMISSIONS RECEIVED 20 December 2005 and 24 January 2006
16 March 2006
DATE OF DETERMINATION

DETERMINATION OF THE AUTHORITY

The Identity of the Respondent

The *Statement of Problem* filed with the Authority cites Tradestaff as the First Respondent and Cryovac/Sealed Air as the Second Respondent.

Counsel for Cryovac/Sealed Air (Sealed Air New Zealand), filed a *Statement in Reply* with the Authority on 24 August 2005, stating that this company did not employ Mr Reid but engaged Tradestaff to provide temporary staff from time to time.

The Authority accepts that there was no employment relationship between Mr Reid and Sealed Air New Zealand hence they cannot be a party to these proceedings and are removed accordingly.

The correct identity of the company that employed Mr Reid is Tradestaff BOP Limited. This determination and the records of the Authority now show that.

Employment Relationship Problem

Mr Reid claims that he was unjustifiably dismissed on 9 March 2005. He asks the Authority to find that he has a personal grievance and award him lost wages and compensation.

Tradestaff say that Mr Reid was not dismissed, rather, the assignment that he was working on simply came to an end, and when he was offered another assignment with Tradestaff, Mr Reid chose not to accept it.

Background

The business of Tradestaff BOP Limited (“Tradestaff”) is temporary recruitment. In the words of Mr David Downey, the Central North Island Regional Manager, the company provides; [“the conduit

between those workers who are in the temporary labour market and those businesses who want temporary staff.”

On 27 January 2005, Mr Reid entered into an employment agreement with Tradestaff. This agreement contains considerable detail. In particular, the agreement provides that Tradestaff are not under any obligation to offer any assignment and Mr Reid is not obliged to accept any assignment. However, the agreement requires that when accepting an assignment of work, then Mr Reid was required to sign a “confirmation of temporary assignment.”

In regard to the termination of assignments, the agreement provides, at clause 10, that:

- “10.1 We or the client can reduce the period of any assignment or terminate any assignments at any time, without notice. In such instances the employment agreement is not deemed to be terminated.
- 10.2 If you wish to terminate any assignment due to finding alternative employment, you must give one week’s notice in accordance with clause 9.1. In such instances the employment agreement is deemed to be terminated.
- 10.3 If you fail to give the required period of notice, then you will forfeit wages equivalent to the notice period you should have given i.e. one week’s wages.
- 10.3 If you wish to terminate any assignment due to you having difficulty with the assignment you need to contact us immediately and make us aware of the situation. In this instance, the employment agreement is not deemed to be terminated.”

The Mr Reid was offered and accepted a temporary assignment to work at Cryovac. He signed a temporary assignment agreement on 9 February 2005 and commenced work the same day. The availability of the work was on a day to day basis. Mr Reid worked at Cryovac for four weeks.

On 9 March 2005,

Ken Anderson
Member of Employment Relations Authority