

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

WA 137/08
5097043

BETWEEN JAMES ROBERT SHEPPARD
Applicant

AND ROBERT VINCENT
TRADING AS LANGS MITRE
10
Respondent

Member of Authority: P R Stapp

Representatives: No appearance for Applicant
Carol Maxwell for Respondent

Investigation Meeting: 7 October 2008, Wellington

Determination: 7 October 2008

DETERMINATION OF THE AUTHORITY

The employment relationship problem application

[1] An employment relationship problem was lodged in the Employment Relations Authority on 15 August 2008 by Mr Sheppard. On behalf of Mr Robert Vincent (the respondent: trading as Langs Mitre 10 Solutions) a statement in reply was lodged on 30 September 2008. A telephone conference with the Authority member then occurred and the parties were directed to attend mediation services provided by the Department of Labour.

[2] The department arranged a time and date for a mediation to occur: to involve Mr Sheppard by telephone, because he had gone overseas, and the respondent was to attend at the department's premises located in Auckland. At the time of the mediation when Mr Sheppard was contacted he was apparently too busy. The mediation had to be abandoned. Another mutually agreed time for both parties to attend by telephone was arranged and the mediation took place. Mr Sheppard advised the Authority's support officer that the matter had not settled. Mr Sheppard then moved to Canada. The file notes indicate that Mr

Sheppard wanted to continue with his employment relationship problem claims but needed to weigh up what the cost would be. A second telephone conference took place with the Authority member and the parties. Arrangements were made for an investigation meeting to be held on 7 October 2008. This was put on notice and sent by email to both parties. Also, an arrangement was made for a consecutive exchange of witness statements to be provided in writing.

[3] Nothing has been heard from Mr Sheppard since the telephone conference, despite attempts being made by the support officer to contact him.

Mr Sheppard's non appearance at the Authority's investigation meeting

[4] I am satisfied that Mr Sheppard knew of the date and time of the investigation meeting. He has made no attempt to progress the matter and keep in touch with the Authority. He has shown no good cause for his absence at today's investigation meeting. I decided to proceed fully in the matter as if Mr Sheppard had attended or been represented: (clause 12 Second Schedule applied).

Mr Sheppard's employment relationship problem

[5] Mr Sheppard was employed by Robert Vincent trading as Langs Mitre 10 Solutions (Mitre 10). The employment relationship had its difficulties that included Mr Sheppard receiving warnings about his behaviour and performance. His employment ended on 9 March 2007. Mr Sheppard claimed he was unfairly dismissed, and that he had been harassed, assaulted and stressed in his employment. Mitre 10 refuted his allegations. It accepted Mr Sheppard was dismissed, but for good cause.

[6] Mr Sheppard did not present any evidence on his claims. Mitre 10 has replied and has indicated that there is another side to Mr Sheppard's story: with reasons for his dismissal and suggested that he was inaccurate and exaggerating. As such it is entirely reasonable to have expected Mr Sheppard to present or arrange evidence of his claims and to provide more detail. In the absence of him doing that I have decided to dismiss his claims.

Order of the Authority

[7] Mr Sheppard's claims are dismissed.

Costs

[8] Costs are reserved.

P R Stapp
Member of the Employment Relations Authority