



# Employment Court of New Zealand

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## Surplus Brokers Limited v Armstrong [2019] NZEmpC 76 (28 June 2019)

Last Updated: 5 July 2019

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2019\] NZEmpC 76](#)

EMPC 148/2019

IN THE MATTER OF	a challenge to determinations of the Employment Relations Authority
AND IN THE MATTER OF	an application for stay of execution of determinations of the Employment Relations Authority
BETWEEN	SURPLUS BROKERS LIMITED Plaintiff
AND	JOHN NEIL ARMSTRONG Defendant

Hearing: 28 June 2019  
(Heard at Auckland by telephone conference  
call)

Appearances: S-J Neville, counsel for plaintiff  
L Anderson, advocate for defendant

Judgment: 28 June 2019

INTERLOCUTORY JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS

(Application for stay of execution)

[1] The plaintiff seeks orders staying execution of determinations of the Employment Relations Authority.<sup>1</sup> The application was originally consented to by way of memorandum filed by Mr Anderson, advocate for the defendant, on 24 June 2019 but he has since advised the Court that the defendant wishes to oppose the application. No notice of opposition has been filed within time. Mr Anderson

1. *Armstrong v Surplus Brokers Ltd* [\[2019\] NZERA 235](#) (substantive); *Armstrong v Surplus Brokers Ltd* [\[2019\] NZERA 355](#) (costs).

SURPLUS BROKERS LIMITED v JOHN NEIL ARMSTRONG [\[2019\] NZEmpC 76](#) [28 June 2019]

indicated that an application for leave to extend time, together with supporting affidavits, would be filed and served.<sup>2</sup>

[2] All of this is unsatisfactory, particularly given that enforcement action has been pursued in the District Court and the bailiff has attended on the plaintiff company's premises with a view to uplifting property. It appears that the bailiff's visit came after the date on which the application for a stay had been filed and served, and after the defendant had indicated his consent to the application.

[3] I heard from the representatives this morning and concluded that it was appropriate to grant an interim stay of execution, to preserve the plaintiff's position pending further order of the Court.

[4] There is accordingly an interim stay of execution of the Authority's substantive determination of 18 April 2019 and the Authority's costs determination of 14 June 2019. The stay will remain in force until further order of the Court.

[5] Leave is reserved for either party to apply to the Court for further directions or orders on reasonable notice.

[6] Costs are reserved.

Christina Inglis Chief Judge

Judgment signed at 11 am on 28 June 2019

2. Timetabling directions in relation to this matter were made during the course of the conference and are reflected in a minute of the Court.

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