

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Thamer R Thamer (Applicant)
AND Massey University (Respondent)
REPRESENTATIVES Thamer R Thamer in person
Hamish Kynaston for Respondent

MEMBER OF AUTHORITY G J Wood

INVESTIGATION Submissions received by 20 March 2006
MEETING
DATE OF 21 March 2006
DETERMINATION

DETERMINATION OF THE AUTHORITY ON APPLICATION FOR STAY

1. In my substantive determination on this matter on 25 January 2006, I dismissed Mr Thamer's claims for unjustifiable disadvantage by the respondent, Massey University. I ordered Mr Thamer to pay Massey the sum of \$3,000 in costs.
2. On 17 February 2006, Mr Thamer applied to the Authority seeking a stay of proceedings on the ground that he was challenging the Authority's determination in the Employment Court. On 22 February 2006, Mr Thamer did in fact challenge that determination and sought a *de novo* hearing.
3. In a later conference call, Mr Thamer agreed that he would pay the \$3,000 owing into the Employment Court's trust account and that he would progress his appeal without delay. Mr Kynaston, on behalf of Massey, later confirmed that it would not enforce the costs order against Mr Thamer pending the Court's decision on his challenge if Mr Thamer gave such undertakings in writing.
4. On 20 March Mr Thamer responded in writing, undertaking to:
 - (a) Deposit \$3,000 into the Employment Court's trust account; and

- (b) Process the appeal as soon as possible “as per the legal procedure in this respect”.
5. I consider that these undertakings will properly balance the interests of both parties in the interests of justice (*NZPPTA v. A-G on behalf of the Minister of Education (No 3)* [1991] 3 ERNZ 708).
6. I therefore grant the application for stay subject to the following conditions:
- (a) Thamer R Thamer will deposit \$3,000 into the Employment Court’s trust account by 4 April 2006 for payment, plus interest, to Massey University to the degree ordered by the Employment Authority or the Employment Court if the following condition is not met;
 - (b) The stay is conditional upon Mr Thamer prosecuting his challenge without delay.
7. If either of these conditions is not met then the stay will lapse and Massey will be able to enforce the costs award in the usual way.

G J Wood
Member of Employment Relations Authority