

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 270/07
5030597

BETWEEN NECHIA TOKONA
 Applicant

AND BRIDGEMAN CONCRETE
 LIMITED
 Respondent

Member of Authority: Marija Urlich

Representatives: David Fleming, for Applicant
 Gary Taylor, for Respondent

Investigation Meeting: On the papers

Determination: 31 August 2007

SUPPLEMENTARY DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] In a determination dated 28 August 2006 (AA 274/06) I found that Ms Tokona was directed by Bridgeman Concrete to commence her parental leave early without consultation and that a consultation meeting with Ms Tokona and her union delegate on 1 August 2005 was too late to remedy the identified process flaw because the period of parental leave had commenced¹.

[2] In a supplementary determination dated 28 November 2006 (AA 274A/06) leave was granted to Ms Tokona to raise additional remedies, namely a claim for remedies related to the process flaws identified in the earlier determination. Ms Tokona was required to file an affidavit and further documentary evidence in support of her claim. The Authority has received that further information and a reply affidavit

¹ AA 274/06 para 14

filed on behalf of Bridgeman Concrete. Both sides have filed submissions in support of their respective positions.

[3] It is clear from this additional information that Ms Tokona's employment continued after Monday 1 August 2005 and that she worked for Bridgeman Concrete until Friday 5 August 2005. During this period she received wages from Bridgeman Concrete for work performed during that week as well as her paid parental leave entitlement. Ms Tokona received the paid parental leave entitlement because she had submitted the paid parental leave form to IRD the preceding week. This form was actioned to commence on 1 August 2005. The meeting with the union delegate was held within the week of Ms Tokona's continued employment. Given this, I find there was a real opportunity to consult over the early commencement of paid parental leave. Grounds for a personal grievance do not exist.

Marija Urlich

Member of the Employment Relations Authority