

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2014] NZERA Christchurch 183
5517979

BETWEEN WEBCO JOINERY LIMITED
Applicant

A N D DANIELLE COLLIER
Respondent

Member of Authority: David Appleton

Representatives: Adam Gallagher, Counsel for Applicant
Angeline Boniface, Counsel for Respondent

Date of Determination: 11 November 2014

CONSENT DETERMINATION OF THE AUTHORITY

[1] The applicant lodged a statement of problem with the Authority on 10 September 2014 seeking urgent orders against the respondent in relation to alleged misuse by her of confidential information and intellectual property belonging to the applicant in breach of the respondent's employment agreement with the applicant.

[2] The parties took part in a telephone case management conference on 12 September 2014 and agreed to seek to resolve the matter by consent. On 24 September 2014 Mr Gallagher, on behalf of the applicant, lodged a document with the Authority dated 24 September 2014, entitled Consent Orders, and indicated that the parties had reached agreement in resolution of the matter.

[3] Ms Boniface, on behalf of the respondent, lodged an affidavit of the respondent on 24 September 2014 which deposed, amongst other things, that Ms Collier agreed and consented to the Orders contained in the memorandum lodged by Mr Gallagher. Unfortunately, the affidavit referred to a memorandum dated 23 September 2014, instead of 24 September 2014. On the basis of this disparity, the

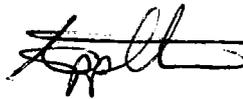
Authority was unable to satisfy itself that a meeting of minds had truly been reached, and so declined to issue a consent order.

[4] Matters then went into dormancy for a period of six weeks, partly due to leave taken by Ms Boniface and partly because the applicant was waiting for the respondent to comply with what it believes she had consented to. A subsequent telephone conference call on 10 October 2014 revealed that the memorandum containing the consent orders bore two dates; the one served on the respondent having been dated 23 September, whilst the one lodged with the Authority had been dated 24 September. However, the Authority having since sent a copy of the memorandum dated 24 September to Ms Boniface, she has confirmed that the contents of the memoranda were identical.

[5] Having received this confirmation, I am able to be satisfied that a meeting of minds has been reached between the parties with regard to the terms of the consent orders.

[6] Accordingly, the consent orders sought, which are set out in an appendix annexed to this determination, become the Orders of the Authority. The Applicant withdraws its claim seeking penalties to be imposed upon the Respondent and agrees that there is no outstanding issue as to costs.

[7] The parties are commended for having reached agreement in this matter.



David Appleton
Member of the Employment Relations Authority



**IN THE EMPLOYMENT RELATIONS AUTHORITY
AT CHRISTCHURCH**

File Number 5517979

Under the Employment Relations Act 2000

In the matter of a breach of employment agreement, breach of confidentiality
and breach of the duty of good faith

Between **WEBCO JOINERY LIMITED**
Applicant

And **DANIELLE COLLIER**
Respondent

CONSENT ORDERS

24 September 2014

Duncan Cotterill
Counsel acting: Adam Gallagher
PO Box 5, Christchurch 8140

Phone +64 3 379 2430
Fax +64 3 379 7097
adam.gallagher@duncancotterill.com

To: the Employment Relations Authority

And to: the respondent

1 The applicant and the respondent have undertaken discussions in an attempt to resolve matters arising from the application for an injunction and penalties.

2 Having discussed matters arising from the application the parties have agreed to the following by consent:

2.1 An order restraining the respondent from using, divulging or disclosing the confidential information and intellectual property of applicant and its clients and customers or any part thereof.

2.2 An order requiring the respondent forthwith to render up to the applicant all documents of whatever nature which represent confidential information and intellectual property of the applicant and its clients and customers, whether original or copies thereof.

2.3 An order requiring the respondent immediately render up to the applicant her personal electronic devices including her personal computer and mobile/cellular phone and any other device upon which the applicant's confidential information and intellectual property is stored so that said devices can be cleansed.

2.4 An order requiring the respondent forthwith to delete the applicant's confidential information and intellectual property held on the Gmail account danielle.collier22@gmail.com and on any other account to which the applicant's information has been transferred and/or stored.

2.5 An order that the respondent makes a \$500 plus GST contribution to the applicant's costs.

2.6 The respondent will provide an affidavit confirming those matters referred to above, acknowledging that her actions were illegal and in breach of the express and implied terms of her employment with the applicant together with confirmation that the respondent has not:

2.6.1 made any hard copies of the applicant's information and has not retained any hard copies of the applicant's information;

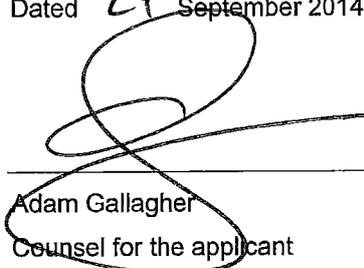
2.6.2 subsequently sent or transmitted the applicant's information to any other device; and

2.6.3 will not use any of the applicant's information that she has had in her possession, power and control.

2.7 That the Employment Relations Authority issues a determination recording the parties' agreement.

2.8 The applicant will discontinue its claim for penalties in the Employment Relations Authority with no issue as to costs.

Dated 24 September 2014



Adam Gallagher
Counsel for the applicant

