

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2011] NZEmpC 35
ARC 90/09**

IN THE MATTER OF a challenge to a determination of the
Employment Relations Authority

BETWEEN ZHANPING YANG
Plaintiff

AND L E BUILDERS LIMITED
Defendant

Hearing: On the papers

Counsel: Danisha LangSiu, counsel for plaintiff
Jennifer Wickes, counsel for defendant

Judgment: 15 April 2011

INTERLOCUTORY JUDGMENT OF CHIEF JUDGE GL COLGAN

[1] This is an unopposed application for an order that an original document be made available for inspection and forensic examination.

[2] The defendant has, through counsel, indicated that whilst it does not support the application, it will not oppose it and is content for the Court to deal with the application without more.

[3] The plaintiff's challenge by hearing de novo is set down for hearing in this Court on 16 and 17 May 2011. An issue in the case will be the authenticity of writing on a tax code declaration. The plaintiff seeks two orders from the Court. First, that Lawrence Leong Eng Loo, the director of the defendant company, provide a handwriting specimen for the purposes of forensic examination and, second, that this specimen and the original tax code declaration document dated 3 June 2008 be

provided to the Chief Document Examiner of the New Zealand Police for forensic analysis.

[4] The plaintiff did not initially specify how the handwriting specimen of Mr Loo should be provided. More particularly, the plaintiff did not appear to have a specimen of Mr Loo's writing made before this became an issue which, following confirmation by Mr Loo of the authenticity of his original writing, would be the usual way of providing evidence for comparative analysis.

[5] In the circumstances, I invited the plaintiff to file a memorandum addressing these deficiencies which counsel did promptly.

[6] Although I have some residual doubts about the efficacy of the plaintiff's proposed orders, ultimately that is a matter for him and I make the following orders:

- By affidavit to be filed and served no later than 20 April 2011, Lawrence Leong Eng Loo is to identify by name the person present with him at the time the original of the tax code declaration, a copy of which is attached to the memorandum filed by the plaintiff on 15 April 2011, was signed on 3 June 2008. In the same affidavit, Mr Loo is to verify whether his handwriting appears on the tax code declaration or, if not, the identity of the person or persons whose handwriting appears on the tax code declaration if that is within Mr Loo's knowledge.
- No later than 20 April 2011, Mr Loo is to present himself, by prior arrangement with the Registrar of the Employment Court at Auckland, before the Registrar, accompanied by his counsel, Ms Wickes, who is to confirm that the person so presenting himself is Mr Loo. Mr Loo is to provide to the Registrar the original of the tax code declaration, a specimen of his handwriting made on or before 3 June 2008, and a current specimen of his handwriting by writing three times the words "Contracts Wholly or Substantially for labour only in the building industry".

- The Registrar must then verify the various documents by identifying them as set out above and is then to transmit the documents, together with a copy of this judgment, to Delwynne Walsh, a New Zealand Police Forensic Examiner, with a request that her report (which is to be paid for by the plaintiff in the first instance) is to be made to the Registrar of the Employment Court at Auckland with copies to counsel for the parties.

[7] Leave is reserved for either party to apply for any further orders or directions that may be necessary to give effect to these orders or as may be necessary as a result of their making.

[8] The foregoing orders are made pursuant to reg 6 of the Employment Court Regulations 2000 and r 9.34 of the High Court Rules.

GL Colgan
Chief Judge

Judgment signed at 12.30 pm on Friday 15 April 2011