

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2012] NZEmpC 59
ARC 12/12**

IN THE MATTER OF an application for declaration

BETWEEN TE RIHIA MANNING
 Plaintiff

AND AWATAHA MARAE INCORPORATED
 Defendant

Hearing: By memorandum of submissions filed on 16 April 2012

Counsel: Richard Harrison, counsel for plaintiff
 Maria Amoamo, advocate for defendant

Judgment: 18 April 2012

JUDGMENT OF CHIEF JUDGE GL COLGAN

[1] By order dated 23 August 2011 the Disputes Tribunal of the District Court at Waitakere adjourned the plaintiff's claim pending determination by "the Employment Tribunal" whether the parties' relationship was one of employer/employee. That was despite the parties apparently agreeing in the Disputes Tribunal that their relationship was not one of employment but was, rather, a contract for services.

[2] The plaintiff has now applied formally to the Court pursuant to s 6 of the Employment Relations Act 2000 (the Act) and the defendant has acknowledged to the Registrar that it considers Ms Manning to have been an independent contractor, that is not its employee.

[3] In these circumstances and, if not by consent, then without opposition, I make a formal order under s 6(5) of the Act that Ms Manning was not an employee of Awataha Marae Incorporated.

[4] There will be no orders as to costs.

[5] A copy of this judgment should be sent to the Registrar of the District Court at Waitakere (Case number: CIV-2011-090-000797) in addition to the parties.

GL Colgan
Chief Judge

Judgment signed at 10 am on Wednesday 18 March 2012