

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2012] NZEmpC 73
ARC 13/10**

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

AND IN THE MATTER OF an application to extend time

BETWEEN TIARE KELLEHER
Plaintiff

AND WIRI PACIFIC LIMITED
Defendant

Counsel: Mark Ryan, counsel for plaintiff
John Ropati, counsel for defendant

Judgment: 1 May 2012

**INTERLOCUTORY JUDGMENT OF JUDGE CHRISTINA INGLIS IN
RELATION TO APPLICATION TO EXTEND TIME**

[1] A hearing for the above proceedings was vacated on 13 February 2012 after the parties advised that the plaintiff was discontinuing her challenge. Counsel were invited to confer on any outstanding issue as to costs, but no agreement was reached. Timetabling orders were made for the filing of submissions. Counsel for the plaintiff was to file and serve any submissions in response to the defendant's application for costs by 30 April 2012.

[2] An application for leave to extend the time for filing submissions was notified to the Registrar on 26 April 2012. A two week extension of time was sought. Counsel for the defendant advised that the application was opposed.

[3] Counsel for both parties have since confirmed, through the Registrar, that they do not wish to be heard further in relation to the application. It is accordingly dealt with on the papers.

[4] The Court has a discretion to make an order extending time under s 219(1) of the Employment Relations Act 2000. The discretion is wide.

[5] The application is based on two grounds. Firstly that counsel was unable to meet the timeframe specified because of workload pressures and secondly that he wished to attend a funeral on Friday 27 April 2012 (reducing the time that might otherwise have been available to prepare the submissions).

[6] Mr Ropati, counsel for the defendant, contends that the suggestion that there were difficulties keeping to the timetable is a “complete nonsense”, and to advance attendance at a funeral as a ground for a two week extension is “unacceptable”. It is further said, although no instances are referred to, that the plaintiff has a history of non-compliance with orders of the Court.

[7] While it is regrettable that counsel was unable to meet the timetabling orders imposed by the Court, I accept counsel’s assurances as to why this was so.

[8] There is no suggestion that the defendant will suffer any prejudice as a result of an extension being granted, and I consider it to be in the broader interests of justice that the application be granted in the circumstances.

[9] Mr Ryan has advised the Court that he will be in a position to file submissions by Monday 7 May 2012. I accordingly extend the time for filing and serving any submissions in relation to costs by counsel for the plaintiff to **no later than 5pm on Monday 7 May 2012**. Submissions will need to be filed within that time. It is unlikely that any further extension will be granted.

Christina Inglis
Judge

Judgment signed at 3.15pm on 1 May 2012