

**IN THE EMPLOYMENT COURT  
AUCKLAND**

**[2012] NZEmpC 15  
ARC 73/11**

IN THE MATTER OF      an application for compliance order

BETWEEN                NOEL COVENTRY  
                                 Plaintiff

AND                        VINCENT SINGH  
                                 Defendant

Hearing:                8 February 2012  
                                 (Heard at Auckland)

Counsel:                Paul White, counsel for plaintiff  
                                 Defendant in person

Judgment:              8 February 2012

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**ORAL INTERLOCUTORY JUDGMENT OF JUDGE CHRISTINA INGLIS**

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[1]      This matter was set down for a formal proof hearing of one hour today. It was set down by the Chief Judge for a formal proof hearing in the absence of any communication from the defendant, Mr Singh, who had (despite being served with a statement of claim) not filed a statement of defence.

[2]      As set out in the statement of claim and reiterated by the Chief Judge, if Mr Singh wished to be heard on, or to defend, the claim in the absence of filing his statement of defence, he could only do so with the leave of the Court.

[3]      Mr Singh appeared this morning. He accepted that he had been served with the statement of claim and application, but said that the proceedings had been in somebody else's hands, referring in particular to an accountant. He advised the Court that his lawyer, who was not in Court, was seeking an adjournment because he had other commitments today.

[4] Mr White, for the plaintiff, did not oppose Mr Singh's application for leave to be heard (which I had invited Mr Singh to make given the circumstances, including the nature of the proceedings, the interests at stake, the fact that Mr Singh appeared this morning and the fact that he appears to take issue with the application). I granted the application for leave for Mr Singh to be heard.

[5] Mr White did, however, vigorously oppose any adjournment. In this regard he submitted that the history of events reflected in the affidavits filed in these proceedings strongly suggests ongoing delays and an unfortunate inference that Mr Singh is simply thumbing his nose at the Court system.

[6] Mr Singh says that he left proceedings in someone else's hands to deal with and has recently instructed a lawyer, Mr Barat Parshotam. However, he confirmed that his instructions were given as late as yesterday afternoon. Mr Singh advised the Court that his lawyer is not available today because he has another hearing at the Manukau District Court.

[7] It is, of course, wholly unsatisfactory for an application for an adjournment to be advanced in the manner in which Mr Singh has done. There is nothing before me, other than Mr Singh's say-so, to support the matters he raises and no application was filed by Mr Singh's lawyer or any other material which addresses the grounds on which the application is advanced.

[8] I am conscious of the fact that this matter was set down for hearing today some time ago. The potential implications of orders being made against Mr Singh and the seriousness of them were highlighted to Mr Singh by the Chief Judge in his earlier minute and earlier still by the Employment Relations Authority in its compliance determination. If the material in the plaintiff's affidavits is correct, Mr Singh continues to fail to comply with the Authority's earlier orders, granted in the plaintiff's favour.

[9] However, while it is inconvenient for the plaintiff, I am not satisfied that there would be any real prejudice in a short adjournment to enable Mr Singh to be

represented and to respond to the application. Costs relating to today's appearance can adequately be dealt with by way of an additional order of the Court.

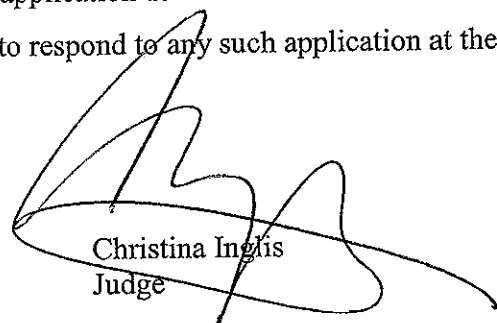
[10] I am mindful of the fact that orders of imprisonment and sequestration are sought by the plaintiff. It is appropriate, in my view, that Mr Singh be given an opportunity to be legally represented in such circumstances.

[11] While I have considerable sympathy for the plaintiff's position today, I am prepared, after balancing the competing considerations, to grant a brief adjournment.

[12] There will be an urgent telephone conference at **1.15pm tomorrow, 9 February 2012** with the Court and counsel. Mr Barat Parshotam must make himself available for this urgent telephone conference. Mr Singh is to advise his counsel of this. The defendant's counsel will need to be in a position to advise the Court on any outstanding issues from the defendant's perspective and timetabling orders will need to be made to progress the application to a hearing at the earliest opportunity.

[13] Mr Singh should be under no illusion that this application needs to be progressed. The plaintiff is entitled to have it heard. Any further delays will be closely scrutinised.

[14] The plaintiff is entitled to costs for today's appearance, the quantum of which I reserve until substantive determination of the application. Mr Singh is on notice that, in the circumstances, I may receive an application for full solicitor/client costs favourably. He will be given an opportunity to respond to any such application at the time.

  
Christina Inglis  
Judge

Oral interlocutory judgment delivered at 11.21am on 8 February 2012