

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2013] NZEmpC 17
ARC 21/12**

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

BETWEEN RHONDA CONNOLLY
Plaintiff

AND NATALIE AND JOSHUA BRINKMAN
Defendants

Hearing: On the papers

Appearances: Lex Lankovsky, counsel for plaintiff
Defendants in person

Judgment: 20 February 2013

JUDGMENT OF CHIEF JUDGE G L COLGAN

[1] On 31 January 2013 the Court made an ‘unless’ order. This was that unless the plaintiff filed and served a second amended statement of claim which complied with reg 11 of the Employment Court Regulations 2000 within 14 days of that date, her challenge would be dismissed.

[2] The background to this ‘unless’ order was as follows.

[3] The plaintiff filed an amended statement of claim dated 31 August 2012 on 4 September 2012 but did not serve that amended statement of claim on the defendants until 20 November 2012. In any event, the plaintiff’s amended statement of claim did not meet the minimum requirements for a statement of claim under reg 11.

[4] On 12 February 2013 the plaintiff's counsel, Mr Lankovsky, advised the Registry that he accepted that his client's proceeding would be dismissed and that he did not wish to file a compliant second amended statement of claim. Mr Lankovsky indicated that the plaintiff was proposing to apply to the Employment Relations Authority to reopen its investigation into the subject matter of the challenge.

[5] In these circumstances I now formally dismiss Ms Connolly's challenge pursuant to the 'unless' order made on 31 January 2013 and generally for non-prosecution of that challenge.

[6] I reserve costs.

[7] If the defendants have incurred costs and wish to claim them, they may do so by memorandum filed and served within one month of the date of this judgment, with the plaintiff having a similar period to respond by memorandum.

GL Colgan
Chief Judge

Judgment signed at 3.15 pm on Wednesday 20 February 2013