

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2013] NZEmpC 220
ARC 70/13**

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

BETWEEN PUNA CHAMBERS INC (FORMERLY
THE MONTESSORI FOUNDATION)
Plaintiff

AND TANIA SARAH CHRISTENSEN
Defendant

Hearing: 29 November 2013 (by telephone)
(Heard at Auckland)

Appearances: Mr Deobhakta, advocate for plaintiff
Mr McKenna, counsel for defendant

Judgment: 29 November 2013

ORAL JUDGMENT OF JUDGE CHRISTINA INGLIS

[1] A statement of claim was filed on 2 September 2013 on behalf of the plaintiff challenging a determination¹ of the Employment Relations Authority that the defendant had raised a personal grievance within the 90 day timeframe for doing so. A statement of defence followed.

[2] At the initial telephone directions conference it was advised, on behalf of the plaintiff, that the plaintiff was in liquidation although the position remained somewhat unclear. An adjournment was sought and granted to confirm the position.

[3] Mr Deobhakta, for the plaintiff, has since filed a memorandum advising that the plaintiff is in liquidation and that it has no interest in pursuing the challenge further. The defendant does not accept that the plaintiff is in liquidation but the

¹ [2013] NZERA Auckland 366.

principal point advanced on her behalf is that the proceedings should be struck out in all of the circumstances.

[4] I heard from the representatives of the parties this morning on the application and it was agreed that I could deal with it immediately.

[5] There is a dispute about the plaintiff's status. However, there is no dispute as to the key issue and that is that the plaintiff does not intend to take any steps to prosecute its challenge. The plaintiff is aware of the consequences of a strike-out and while it does not consent to the application, it does not actively oppose it.

[6] The defendant should not be subject to proceedings which will not be actively pursued against her. She is entitled to have a degree of finality.

[7] I am satisfied that, in the circumstances, it is in the interests of justice to strike out the proceedings and I accordingly do so.

[8] The defendant is entitled to costs, although I anticipate that they will be relatively modest and I would hope that they can be agreed. If they cannot be agreed, costs can be the subject of memoranda, with the defendant filing and serving a memorandum with supporting material within 10 working days of the date of this judgment, and the plaintiff filing and serving any reply within a further 10 working days.

Christina Inglis
Judge

Judgment delivered orally at 10.32 am on Friday 29 November 2013