

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2013] NZEmpC 244
ARC 69/13**

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

AND IN THE MATTER of an application for stay of execution of
proceedings

AND IN THE MATTER of an application for urgency

BETWEEN PHILLIPA WHAANGA
Plaintiff

AND SHARP SERVICES LIMITED
Defendant

Hearing: Following a telephone conference call at 11am on 17 December
2013
(Heard at Auckland)

Appearances: Mr Bennett, advocate for plaintiff
Mr Keating, counsel the defendant

Judgment: 17 December 2013

INTERLOCUTORY JUDGMENT (NO 1) OF JUDGE CHRISTINA INGLIS

[1] A telephone conference call was convened this morning to discuss two applications filed on behalf of the defendant, namely an application for a stay of execution of orders made against it by the Employment Relations Authority (the Authority)¹ and an associated application for urgency.

[2] The application for urgency was advanced on the basis that the plaintiff is taking steps to enforce orders made by the Authority in her favour.

¹ [2013] NZERA Auckland 354, [2013] NZERA Auckland 436.

[3] The application for stay of execution arises in a context of both a substantive and a costs determination made by the Authority. The Authority found that the plaintiff had been unjustifiably dismissed by the defendant but concluded that she was not entitled to reimbursement of lost wages and holiday pay. The plaintiff was, however, awarded \$2,500 by way of compensation for hurt and humiliation. The Authority subsequently ordered the defendant to pay the plaintiff a contribution of \$1,750 towards her costs.

[4] After hearing from the parties' representatives, I concluded that the application for stay ought to be dealt with on an urgent basis and timetabling orders to progress for the stay application (which is opposed) were made. In this regard, it was agreed that any affidavit and submissions in support of the application will be filed and served no later than midday tomorrow, 18 December 2013, and any material in reply will be filed and served no later than 10am on 19 December 2013. It was agreed that the application for stay will be dealt with on the papers. It is anticipated that a judgment on the application will be delivered on 19 December 2013.

[5] Mr Keating sought interim orders pending final determination of the application for stay. While not consenting to such orders being made, Mr Bennett was content to abide the decision of the Court. In the circumstances, and having regard to the enforcement action currently being taken, I was satisfied that it is necessary, in order to preserve the position of the defendant, to make the interim order sought. Accordingly, the following interim order was made:

- a) Pending final determination of the application for a stay of execution, or further order of the Court, execution of the Authority's substantive and costs determinations (in [2013] NZERA Auckland 354, [2013] NZERA Auckland 436) are stayed.

[6] Leave is reserved for either party to apply for further directions or orders.

[7] Costs are reserved.

Christina Inglis
Judge

Judgment signed at 1pm on 17 December 2013