

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2014] NZEmpC 11
ARC 43/12**

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

AND IN THE MATTER of an application for stay of proceedings

BETWEEN CATHERINE TAN
Plaintiff

AND MORNINGSTAR INSTITUTE OF
EDUCATION LIMITED T/A
MORNINGSTAR PRESCHOOL
Defendant

Hearing: By joint memorandum of the parties filed with the Court on 10
January 2014

Appearances: Garry Pollak, counsel for the plaintiff
Paul Pa'u, advocate for the defendant

Judgment: 10 February 2014

JUDGMENT OF JUDGE M E PERKINS

[1] As indicated in my judgment of 19 July 2013,¹ the defendant filed an application for leave to appeal to the Court of Appeal against this Court's judgment in favour of the plaintiff dated 16 May 2013.²

[2] Following my judgment the defendant, as directed, paid the sum of \$18,553.66 into the Employment Court's trust account, which was then to be held in an interest bearing account.

¹ [2013] NZEmpC 138.

² [2013] NZEmpC 82.

[3] The parties have now indicated that the defendant has elected to abandon the application for leave to appeal. There has been some delay in the appeal being formally abandoned. The parties' representatives have now filed a joint memorandum to this Court dated 20 December 2013. That joint memorandum indicates that the defendant has abandoned the application for leave to appeal and that in the circumstances the parties consent to all of the funds held by the Employment Court, being now released to the trust account of Mr Garry Pollak, who is counsel for the plaintiff. In view of that indication there is a direction accordingly. Obviously once Mr Pollak receives the funds, including the accrued interest, he will be at liberty to disburse them to his client Ms Tan.

[4] The joint memorandum does not deal with the issue of any further costs, and it is therefore presumed that no further issue as to costs now arise.

M E Perkins
Judge

Judgment signed at 4.15 pm on 10 February 2014