

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2014] NZEmpC 132
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 adjournment

BETWEEN PHILLIPA WHAANGA
 Plaintiff

AND SHARP SERVICES LIMITED
 Defendant

Hearing: 23 July 2014
 (Heard at Auckland)

Appearances: G Bennett, advocate for plaintiff
 A Sharp, representative for defendant

Judgment: 23 July 2014

ORAL INTERLOCUTORY JUDGMENT OF JUDGE CHRISTINA INGLIS

[1] The defendant has applied this morning for an adjournment of the hearing. The application is opposed by the plaintiff. These proceedings are part-heard, having already consumed two days of hearing time on 5 and 6 May 2014. The hearing was to resume today for the completion of the final witness's evidence and submissions.

[2] Mr Keating, counsel for the defendant, is unwell and has been, it appears, for some time. This is confirmed in a medical certificate, drawn to the Court's attention and the attention of the plaintiff's representative, Mr Bennett, on Monday 21 July 2014. It was uncertain at that time whether Mr Keating still had instructions to act for the defendant but Ms Sharp, a director of the company, confirmed this morning

that he does. It is apparent that there have been communication issues that may have been contributed to by Mr Keating's ill health.

[3] Ms Sharp effectively submits that the company would be prejudiced if the hearing proceeded today, including in terms of the ability to advance legal submissions (which it appears Mr Keating has partially drafted but has not yet provided to Ms Sharp).

[4] Mr Bennett accepts that the defendant is in a difficult position, but raises valid concerns in relation to timeframe issues, including when a resumed hearing might be able to be accommodated by the Court.

[5] I accept that it is undesirable for the hearing to be further delayed. However I must have regard to the overall interests of justice, including the prejudice that the defendant would suffer if it was required to proceed at this stage in the absence of representation. The prejudice that the plaintiff may otherwise suffer can be ameliorated in other ways, by costs and an early fixture.

[6] The hearing is accordingly adjourned to a new date to be fixed by the Registrar in consultation with the parties. That new date will need to be as soon as possible. If Mr Keating is unavailable, the defendant will need to make alternative arrangements for representation. It is important that this case is brought to a conclusion in a timely manner.

[7] Costs are reserved.

Christina Inglis
Judge

Oral judgment delivered at 9.40 am on 23 July 2014