

**IN THE EMPLOYMENT COURT
AUCKLAND**

**AC 23/08
ARC 5/08**

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

AND
IN THE MATTER OF an application for stay of proceedings

AND
IN THE MATTER OF an application for security of costs

BETWEEN DAVID RAMA BUSING
Plaintiff

AND AUTOTERMINAL NEW ZEALAND
LIMITED
Defendant

Hearing: 26 June 2008
(Heard at Auckland)

Appearances: Joanne Watson, counsel for plaintiff to oppose
Andrea Twaddle, counsel for defendant in support

Judgment: 26 June 2008

INTERLOCUTORY JUDGMENT OF JUDGE B S TRAVIS

[1] Autoterminal New Zealand Limited has applied for orders requiring the plaintiff to give security for costs for this proceedings and staying the plaintiff's challenge until he has paid in full the outstanding costs order of \$3,000 made by the Employment Relations Authority on 19 March 2008.

[2] Ms Watson for the plaintiff explained that the plaintiff is presently in gainful employment which may cease in mid-July this year. He has no means to pay the Authority's costs determination or any sum to provide security for the defendant's costs if his challenge fails. Ms Watson says she has explained to him the

consequences of an order for security of costs and a stay and has advised him of his right to apply for legal aid. She wishes to be able to review the situation if the plaintiff's circumstances change.

[3] Ms Twaddle for the defendant sought \$5,000 as security for costs.

[4] Because there has been no opposition to the application for stay and security for costs and the plaintiff appears to be impecunious, it will be granted but on the following terms:

- Firstly that the action is stayed until the amount of the Authority's award of \$3,000 is paid into Court; and
- Secondly that an amount of \$2,500, on account of the potential costs of the challenge should the plaintiff not be successful, be also paid into Court.

[5] This stay is to be reviewed depending upon the changing circumstances of the plaintiff and leave is reserved to the parties to make further application to the Court in light of those circumstances.

[6] Because of the stay it is not appropriate to move to a callover to set the matter down for hearing. The case will not proceed any further until the costs and security have either been paid into Court, or, as a result of any further information provided to the Court with the opportunity of both parties being heard on that material, the stay orders I have made today are varied.

[7] Costs in relation to the current application are reserved.

B S Travis
Judge

Interlocutory Judgment signed at 3.30pm on 26 June 2008