

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2020] NZEmpC 136
EMPC 411/2018**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for leave to file a supplementary bundle of documents
BETWEEN	CONCRETE STRUCTURES (NZ) LIMITED Plaintiff
AND	SAM WARD Defendant

EMPC 426/2019

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for leave to file a supplementary bundle of documents
BETWEEN	SAM WARD Plaintiff
AND	CONCRETE STRUCTURES (NZ) LIMITED Defendant

Hearing: On the papers
and by telephone on 31 August 2020
(Heard at Auckland)

Appearances: KA Badcock, KS and L Badcock, counsel for Concrete Structures
(NZ) Limited
R Bryant, counsel for S Ward

Judgment: 31 August 2020

INTERLOCUTORY JUDGMENT (NO 2)
OF CHIEF JUDGE CHRISTINA INGLIS
(Application for leave to file a supplementary bundle of documents)

[1] A telephone hearing was convened this morning to discuss issues relating to an application, advanced on behalf of Mr Ward, to file a second supplementary bundle of documents in advance of the hearing.

[2] The hearing is set down for two days in Tauranga commencing on 2 September 2020. The application was opposed by Concrete Structures (NZ) Ltd.

[3] The documentation is limited. It comprises an email from Ms Stevens (an administrator at the company) to Mr Ward attaching a payslip for the period ending 6 November 2016; an individual employment agreement with Mr Ward's subsequent employer; and a letter from the human resources co-ordinator at Mr Ward's subsequent employer. Mr KA Badcock, counsel for the company, did not take issue with the admissibility of the documentation. Rather his concern (which I understood to be primarily focussed on the payslip documentation) was directed at the lateness of the application and the potential for prejudice.

[4] The claim of prejudice must be seen in context. The payslip is a document generated by the company and relates to Mr Ward's final pay. It was forwarded to Mr Ward by Ms Stevens. Ms Stevens will be giving evidence at the hearing (two days hence), including as to her role processing pay, maintaining staff records and completing Mr Ward's final pay. While Ms Stevens's availability prior to the hearing appears to be somewhat limited, I am confident that the company can provide her with the document and give her an opportunity to consider it prior to the hearing. It was unclear what anticipated difficulties the limited documentation in relation to Mr Ward's current employment may give rise to from the company's perspective.

[5] The documentation is relevant to the matters at issue. Leave is being sought at a late stage and that is regrettable. However, the application must be dealt with having regard to the broader interests of justice. I am satisfied that any prejudice to the

company can be addressed. In the circumstances, it was agreed that the second supplementary bundle would be dealt with on the following basis. The bundle will be admitted but leave is reserved to apply for any further orders at the hearing if that proves necessary. Obviously, any such application will be dealt with on its merits at the time.

[6] Costs are reserved.

Christina Inglis
Chief Judge

Judgment signed at 4.30 pm on 31 August 2020