

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

**I TE KŌTI TAKE MAHI O AOTEAROA
ŌTAUHAHI**

**[2020] NZEmpC 41
EMPC 324/2019**

IN THE MATTER OF	a challenge to a determination of the Employment Relations authority
AND IN THE MATTER OF	an application for leave to vacate fixture
BETWEEN	CANTERBURY WESTLAND KINDERGARTEN ASSOCIATION INCORPORATED Plaintiff
AND	JANE ROSEMARY BARNES Defendant
AND	NZEI TE RIU ROA Intervener
AND	SECRETARY FOR EDUCATION Intervener

EMPC 349/2019

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for leave to vacate fixture
BETWEEN	JANE ROSEMARY BARNES Plaintiff
AND	CANTERBURY WESTLAND KINDERGARTEN ASSOCIATION INCORPORATED Defendant
AND	NZEI TE RIU ROA Intervener
AND	SECRETARY FOR EDUCATION Intervener

Hearing: On the papers

Appearances: M O’Flaherty, counsel for Canterbury Westland Free Kindergarten Association Incorporated
A Halse, advocate for Ms Barnes

Judgment: 14 April 2020

**INTERLOCUTORY JUDGMENT (NO 2)
OF CHIEF JUDGE CHRISTINA INGLIS
(Application for leave to vacate fixture)**

[1] Ms Barnes has applied for the fixture, currently set down for hearing in Christchurch on 1 May 2020, to be vacated. The request is advanced on the basis of concerns about her health and, in particular, her capacity to deal with a hearing conducted by way of remote participation if that is what is required.

[2] The Canterbury Westland Kindergarten Assoc Inc (the Association) abides the decision of the Court, pointing out that (at this stage at least) it is uncertain whether a hearing in person will be able to proceed safely.

[3] The hearing involves not only the parties, but also two interveners, NZEI Te Riu Roa and the Secretary for Education. Written submissions from the interveners are due to be filed and served on 17 April 2020. Briefs of evidence for Ms Barnes were to have been filed and served a week ago, but this step has not yet been taken.

[4] The Court must be guided by the overall interests of justice. In the circumstances, and having particular regard to the proximity of the fixture, the health issues identified on behalf of Ms Barnes, and the position of the Association, I consider it appropriate that the hearing be adjourned and the timetabling directions currently in place suspended.

[5] A telephone conference should be convened within the next three weeks to progress matters.

[6] Costs are reserved.

Christina Inglis
Chief Judge

Judgment signed at 3 pm on 14 April 2020