

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

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

**[2020] NZEmpC 55  
EMPC 180/2015**

IN THE MATTER OF	a challenge to determinations of the Employment Relations Authority
BETWEEN	BEVAN READ Plaintiff
AND	TRENDS PUBLISHING INTERNATIONAL LIMITED (IN RECEIVERSHIP AND IN LIQUIDATION) Defendant

Hearing: (on the papers)

Appearances: H White, counsel for the plaintiff  
A Grenfell, liquidator of defendant company

Judgment: 30 April 2020

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**JUDGMENT OF JUDGE B A CORKILL**

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[1] This judgment resolves long-running challenges to a substantive determination of the Employment Relations Authority, and to a related costs determination.<sup>1</sup>

[2] Briefly, Mr Read alleged that Trends Publishing International Ltd (Trends), as it then was, had breached his employment agreement and created a workplace which was hostile to him. It denied these allegations. Rather, Trends asserted that the incident on which Mr Read relied disclosed inappropriate behaviour by him. Ultimately, the Authority determined that Mr Read did not have a personal grievance. It also determined that, although Trends had demonstrated Mr Read had incited

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<sup>1</sup> *F v G* [2015] NZERA Auckland 164 (substantive determination) (Chief Member Crichton); *F v G* [2015] NZERA Auckland 382 (costs determination) (Chief Member Crichton).

breaches of various employment agreements between the staff and the company, and had committed breaches of his good faith obligation and of his own employment agreement, Trends had not quantified any particular penalty, and the Authority declined to award one.<sup>2</sup>

[3] Subsequently, the Authority determined that Mr Read should pay costs to Trends of \$4,000.<sup>3</sup>

[4] Mr Read then brought a challenge to these determinations. Various interlocutory matters were dealt with by the Court, including an application for stay of execution and security for costs.<sup>4</sup> In that judgment, I directed Mr Read to pay the sum of \$4,000 to the Registrar, and that this sum would be held on an interest-bearing account until further order of the Court. No order for security was made.<sup>5</sup>

[5] Parallel to the proceeding in the Court was a related case in the High Court. Ultimately, it was decided that the hearing of the challenge in the Employment Court should be deferred until after the High Court had ruled on the matters before it.

[6] These were the subject of a lengthy hearing in the High Court, which led to it issuing its judgment on 30 April 2019.<sup>6</sup> That Court recorded that Trends had sought substantial damages from Callaghan Innovation Ltd (Callaghan) for alleged breaches of contract and statutory duties arising out of a Funding Agreement for a Growth Grant entered into by Trends and Callaghan on 2 April 2014. The Court ruled that Trends' claims failed in their entirety, and that Callaghan was entitled to judgment accordingly, as well as costs.<sup>7</sup>

[7] This result led to Ms White, counsel for Mr Read, advising this Court that the statement of claim would require refinement in light of the conclusions of the High Court judgment; and to the bringing on of an application regarding certain disclosure issues which remained outstanding at that stage.

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<sup>2</sup> *F v G* (substantive determination) at [65]–[66].

<sup>3</sup> *F v G* (costs determination) at [13].

<sup>4</sup> *Read v Trends Publishing International Ltd* [2018] NZEmpC 5.

<sup>5</sup> At [21]–[22].

<sup>6</sup> *Trends Publishing International Ltd v Callaghan Innovation* [2019] NZHC 907.

<sup>7</sup> At [234]–[235].

[8] A hearing to resolve these issues was set down for 26 September 2019. Shortly before it was due to take place, the agent acting for Trends, Ms Kirsty Johnson, indicated she would not be attending the disclosure hearing, and she would take no further part in the proceeding. The Court advised the parties that it would proceed with the disclosure hearing, by way of a minute which was served on Ms Johnson and the Trends registered office. The hearing proceeded; subsequently, I directed Ms White to serve her submissions on the registered office of Trends, offering it a limited time to provide any submissions in response.

[9] Soon after, the Court was advised that Trends had been placed in receivership on 10 October 2019, and then in liquidation on 5 November 2019.

[10] In due course, Ms White advised that consideration was being given to the making of an application to the High Court for an order to proceed with the hearing of Mr Read's challenge under s 248 of the Companies Act 1993; this step was necessary because the liquidator was unwilling to consent to a continuation of the hearing of the challenges.

[11] More recently, the Court was advised that this step in the High Court would not be taken and that Mr Read wished to discontinue his proceeding, save for his challenge as to costs.

[12] On 24 March 2020, the Court was advised by memorandum from Ms White that all matters, including the outcome of the costs challenge, were agreed; this was confirmed by the liquidator.

[13] On the basis of this consensus, I ordered by consent that all monies held by the Registrar and any interest thereon was to be paid out as soon as possible to Mr Read or his nominee.

[14] I also advised the parties that a judgment would be issued recording the elements of their agreement as soon as was feasible.

[15] I now make the following orders:

- a) By consent, the challenge against the Authority's costs determination is allowed. It is accordingly set aside.
- b) The proceedings in this Court are discontinued with no issue as to costs.

B A Corkill  
Judge

Judgment signed at 11.15 am on 30 April 2020