

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

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

**[2020] NZEmpC 56
EMPC 31/2018**

IN THE MATTER OF minimum employment standards –
 declaration of breach

**EMPC 104/2018
EMPC 154/2018**

AND IN THE MATTER OF proceedings removed in full from the
 Employment Relations Authority

EMPC 469/2019

AND IN THE MATTER OF a freezing order

BETWEEN A LABOUR INSPECTOR OF THE
 MINISTRY OF BUSINESS, INNOVATION
 AND EMPLOYMENT
 Plaintiff

AND JEET HOLDINGS LIMITED
 First Defendant

AND JEET HOLDINGS NO 2 LIMITED
 Second Defendant

AND JEET HOLDINGS NO 5 LIMITED
 Third Defendant

AND JEET HOLDINGS NO 6 LIMITED
 Fourth Defendant

AND JEET HOLDINGS NO 8 LIMITED
 Fifth Defendant

AND JEET GROUP EMPLOYEES LIMITED
 Sixth Defendant

AND AMAR DEEP SINGH
 Seventh Defendant

AND

JEET HOLDINGS NO 7 LIMITED
Eighth Defendant

Hearing: On the papers

Appearances: G La Hood, counsel for plaintiff
A Singh, seventh defendant in person and as agent representing
third, sixth and eighth defendants

Judgment: 30 April 2020

INTERLOCUTORY JUDGMENT OF JUDGE M E PERKINS
(Discharge of freezing order and related matters)

Introduction

[1] These proceedings are set down for a 10-day hearing in the Employment Court at Christchurch commencing Monday 18 May 2020 and concluding Friday 29 May 2020. In preparation for that hearing timetabling orders were made by agreement on 14 November 2019. Since that time the first, second, fourth and fifth defendants have been placed in liquidation and liquidators are now representing those defendants. In addition, the COVID-19 lockdown has been imposed.

[2] Amar Singh, the seventh defendant, is representing himself in the proceedings and is now representing the remaining defendant companies not in liquidation.

Freezing order

[3] In a judgment dated 13 December 2019, the Court imposed a freezing order against the assets of all eight defendants pursuant to s 190(3) of the Employment Relations Act 2000.¹ In a subsequent judgment dated 19 December 2019, the freezing order was renewed and was to continue pending the substantive hearing of the matter.²

¹ *A Labour Inspector of Ministry of Business Innovation and Employment v Jeet Holdings Ltd* [2019] NZEmpC 188.

² *A Labour Inspector of Ministry of Business and Innovation and Employment v Jeet Holdings Ltd* [2019] NZEmpC 194.

[4] On 31 January 2020, on an application made by a secured creditor of the defendant companies, the freezing order was varied. The circumstances of that variation are fully set out in Judge Corkill’s judgment of that date and do not need to be repeated now.³

Fixture 18-29 May 2020

[5] Two aspects of the substantive hearing have recently been discussed at a directions conference with Mr La Hood, counsel for the plaintiff, and Mr Singh. The first of these related to the question of whether the plaintiff would be able to continue the proceedings against the companies in liquidation without agreement of the liquidators or order of the High Court granting leave. Mr La Hood has been in correspondence with the liquidators who have indicated that they agree to the continuation of the proceedings against the first, second, fourth and fifth defendants. They further agree that they will abide the decision of the Court involving those defendants. They have indicated that they will not participate in the hearing. The liquidators, however, have raised the fact that they are unable to proceed with the liquidation while the freezing order in respect of the assets of the companies in liquidation remains in place. Because of this, Mr La Hood stated that the Labour Inspector would apply for a discharge of the freezing order in respect of the assets of the first, second, fourth and fifth defendants and such an application has now been made.

[6] In support of the Labour Inspector’s application to discharge the freezing order the liquidators have executed a memorandum confirming their agreement to continuation of the proceedings and that they will abide the decision of the Court and not participate in the hearing. In addition, they have iterated their obligations towards the employees of the companies in liquidation to afford them preferential status in the liquidation pursuant to s 312 and the seventh schedule of the Companies Act 1993. Mr La Hood has filed a copy of the liquidators’ memorandum.

³ *A Labour Inspector of Ministry of Business, Innovation and Employment v Jeet Holdings Ltd* [2020] NZEmpC 2.

[7] The second matter relating to the pending hearing involves Mr Singh's position because of the COVID-19 lockdown. Mr Singh is presently in India caring for his aged mother. He is affected by a similar lockdown to that applying in New Zealand. He is not permitted to travel within India nor make any connections with an international flight to New Zealand. Mr Singh is a New Zealand citizen. He has indicated that, even if he were able to procure a ticket for a flight back to New Zealand, he would not be permitted to leave his present residence in India to travel to a major city for the flight until at least 3 May 2020. Even if he had a flight leaving India on that date, which is unlikely, he would need to be in quarantine in New Zealand upon arrival until the day of the commencement of hearing at the earliest.

[8] During the discussions with Mr La Hood and Mr Singh, the prospect of Mr Singh conducting the defence for himself and the remaining companies from India by AVL was raised. I decided that this was not in the interests of Mr Singh and his companies and would be contrary to the overall interests of justice. This is particularly so as Mr Singh is intending to call several witnesses at the hearing who reside in New Zealand. His prospects of being able to properly prepare for the hearing would be remote.

[9] In view of these difficulties Mr La Hood, on behalf of the Labour Inspector, has indicated that there are valid reasons for an adjournment. An adjournment has been sought to a new date for a 10-day hearing at the Court's earliest convenience considering the present COVID-19 restraints.

[10] The Court's Registrar has been in contact with Mr Singh by way of email correspondence in respect of the Labour Inspector's application to discharge the freezing order and the adjournment. While he has no standing in respect of the application to discharge the freezing order against the companies in liquidation, Mr Singh nevertheless does not oppose the discharge in respect of the first, second, fourth and fifth defendants. He also consents to the proceedings being adjourned.

Disposition

[11] In the circumstances, the following orders are made by consent:

- (a) With the consent of the liquidators of the first, second, fourth and fifth defendants, the Labour Inspector is authorised to continue the proceedings against those defendants.
- (b) The freezing order made by the Court on 13 December 2019, subsequently renewed and varied, is discharged against the assets of first, second, fourth and fifth defendants. It will remain in force against the assets of the remaining defendants.
- (c) The Court's fixture set for 18-29 May 2020 is vacated. The proceedings are adjourned for a 10-day fixture to be arranged as soon as is practicable in view of the present pandemic circumstances.
- (d) Costs are reserved.

M E Perkins
Judge

Judgment signed at 12.45 pm on 30 April 2020