

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

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

**[2023] NZEmpC 216  
EMPC 288/2023**

IN THE MATTER OF	a review of a search order
AND IN THE MATTER OF	an application for consequential orders following a search order
BETWEEN	CHAIN & RIGGING SUPPLIES LIMITED Applicant
AND	JUSTIN DOUGLAS WERAHOKO NIKORIMA First Respondent
AND	RAPIDO SAFETY SOLUTIONS LIMITED Second Respondent

Hearing: 30 November 2023  
(Heard at Auckland via audio visual link)

Appearances: P Amaranathan, counsel for applicant  
J Douglas, counsel for first respondent  
T Jarman and J Shaw, counsel for second respondent

Judgment: 30 November 2023

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**ORAL JUDGMENT (NO 5) OF JUDGE B A CORKILL  
(Application for consequential orders following a search order)**

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[1] In a series of prior judgments, the Court made a search order, and subsequently reviewed the implementation of that order at a review hearing held on 4 September 2023.<sup>1</sup>

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<sup>1</sup> *Chain & Rigging Supplies Ltd v Nikorima* [2023] NZEmpC 133; *Chain & Rigging Supplies Ltd v Nikorima* [2023] NZEmpC 134; *Chain & Rigging Supplies Ltd v Nikorima* [2023] NZEmpC 148; and *Chain & Rigging Supplies Ltd v Nikorima* [2023] NZEmpC 154.

[2] On the latter occasion, a detailed order was made to regulate the analysis of removed documents, certain van photographs and electronic information obtained from removed devices.

[3] On 20 October 2023, the applicant made a request for further orders in light of the legal and IT expert analysis that had been undertaken, seeking release of information to the parties themselves, a step which had been precluded under the pre-existing orders.

[4] Ms Amaranathan, counsel for the applicant, had intended that the Court might have dealt with the application on the papers prior to a formal review of the search order today, but the level of complexity was such that these issues needed to be reserved for a hearing where I could hear from all counsel.

[5] By yesterday, a good deal of agreement had emerged although I note that on one issue in particular, there is not a consensus. In my view the way forward is to make orders which I am satisfied should be made, whether or not there is outright consent.

[6] In light of those preliminary remarks, I now make orders as sought.

- (a) The van photographs, as referred to in the orders dated 4 September 2023, may be released to the parties.
- (b) Photographs of the documents identified in the document inventory, which Ms Amaranathan prepared from photographs of documents that were removed and/or copied during execution of the search order, may be released to the parties.
- (c) The electronic files identified by Mr Hansen-Belde under the orders of 4 September 2023, and subsequently disclosed to counsel for the parties, may now be released to the parties (information for release).

[7] I record that the information for release may be used by the parties for the purposes of the current proceedings between them in the Employment Relations Authority under file 3248519, subject to the information being relevant.

[8] The information for release may not be used by the applicant for any other purpose except by agreement between the parties, or with leave of the Court, or by direction of the Authority.

[9] Where a party asserts that information within the information for release is confidential to that party, it must identify that information to the other parties; where there is disagreement as to confidentiality, the parties have leave to make an appropriate application to the Court. Ms Douglas, counsel for the first respondent, did not consent to the making of this particular order. I am, however, satisfied it is appropriate.

[10] I record that I discussed with counsel a separate employment relationship problem raised in the Authority by a former employee of the applicant.<sup>2</sup> It is clear that any documentary requests that might be relevant to that employment relationship problem can be dealt with under the above orders.

[11] I turn now to a timeline for any further searches by the applicant of the electronic information. In that regard, an indication of steps that the applicant either may or may not take is to be provided in a memorandum to be filed by Ms Amaranathan within two working days of the parties attending mediation. The applicant's memorandum is to specify the timing of any particular steps which it is proposed should be taken. Ms Douglas and Mr Shaw, counsel for the second respondent, may reply to that intended timetable within seven days thereafter. The Court will then consider the making of an order either approving the application, in whole or in part, or declining it.

[12] There are two residual matters. The first is costs. I am going to establish a timetable for the resolution of costs in connection with the proceeding in this Court after I have received the memoranda from counsel on the issue of whether any further

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<sup>2</sup> As described in my previous judgments.

searches of electronic information are to be undertaken. I am not fixing a timetable for dealing with the costs issue at this stage, as the Court will need first to have clarity as to whether there are going to be ongoing processes which should properly be included in any consideration of costs issues.

[13] Finally, Mr Shaw advised me that the second respondent may bring an application with regard to damage allegedly caused to the former employee's work van during the execution of the search order. He suggested that this be dealt with at the same time as costs issues. Again, I will timetable this once it is clear what further steps may be conducted under the search order. There was debate as to whether such an application might be dealt with together with any costs application. I record that there may be features of that application which mean it has to be dealt with as a standalone matter involving, for instance, the hearing of evidence. I will consider the issue of process once the application and responses to it have been filed.

[14] I reserve leave to any party to apply for any further directions on reasonable notice.

B A Corkill  
Judge

Judgment delivered orally at 11.25 am on 30 November 2023