

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

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

**[2024] NZEmpC 30  
EMPC 310/2023**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for an adjournment
BETWEEN	STONEWOOD GROUP LIMITED Plaintiff
AND	VGP Defendant

Hearing:	On the papers
Appearances:	A Wilson, counsel for plaintiff D Gelb, advocate for defendant
Judgment:	26 February 2024

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**INTERLOCUTORY JUDGMENT OF JUDGE J C HOLDEN  
(Application for an adjournment)**

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[1] Stonewood Group Limited has challenged a costs determination of the Employment Relations Authority that required it to pay the defendant \$2,250 as a contribution to his costs.<sup>1</sup>

[2] There was an issue as to whether the challenge could be dealt with on the papers or whether a hearing was required. At that stage, Stonewood was represented by the advocate Mr Gregory Bennett, who advised the Court that Stonewood wished

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<sup>1</sup> *VGP v Stonewood Group Ltd* [2023] NZERA 435 (Member English).

to have a hearing. A telephone hearing accordingly was set down for Monday 19 February 2024.

[3] Contrary to Stonewood's memorandum seeking an adjournment, Mr Bennett filed substantive submissions on the challenge on 6 November 2023. He also filed submissions in reply on 27 November 2023.

[4] After he filed those submissions, however, Mr Bennett became incapacitated and unable to represent Stonewood. It seems Stonewood was not aware of this until shortly before the hearing date. Stonewood (then represented by Ms Chow, as agent), sought an adjournment. Although the situation was unsatisfactory from the defendant's perspective, after discussion at a telephone conference, an order adjourning the hearing to Tuesday 27 February 2024 was made by consent. This was principally to enable Stonewood to attempt to contact Mr Bennett, or to obtain alternative representation. The parties were also to have settlement discussions in an attempt to resolve the challenge. Ms Anne Wilson has now been instructed as counsel to represent Stonewood. At this stage, the parties have been unable to settle the challenge.

[5] Stonewood now seeks a further adjournment until the next available date after 5 March 2024.

[6] The defendant opposes the adjournment. He wants certainty and resolution of all matters between Stonewood and himself. He also says the matter can be determined on the papers.

[7] While I acknowledge that the matter has become drawn out, in the interests of justice it is necessary to grant the application for an adjournment. Stonewood has suggested a timetable for it to file further submissions by Friday 1 March 2024. While it has already filed substantive submissions on the challenge, given it has new representation, it should be able to revisit those and, if necessary, file updated or additional submissions.

[8] Any further submissions on the challenge from Stonewood are to be filed and served by **4 pm on Friday 1 March 2024**. The defendant has also filed substantive submissions on the challenge, but, if he wishes, he may file and serve further submissions in response to those of Stonewood by **4pm on Friday 8 March 2024**.

[9] The current hearing date is vacated. Stonewood is to advise the Registrar if it is content for the matter to dealt with on the papers. If it continues to seek a hearing of the substantive challenge, a half day hearing, by telephone, is to be arranged by the Registrar in consultation with the representatives for the next available date after 8 March 2024.

[10] Costs on this application are reserved.

J C Holden  
Judge

Signed on 26 February 2024 at 4.15pm