



**THE EMPLOYMENT COURT OF NEW ZEALAND
TE KŌTI TAKE MAHI O AOTEAROA**

23 November 2021

MEDIA RELEASE

WXN v Auckland International Airport Ltd

MEDIA RELEASE

This summary is provided to assist in the understanding of the Court’s judgment. It does not comprise part of the reasons for the judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at <https://www.employmentcourt.govt.nz/>.

Background

WXN was long-standing and respected employee of Auckland International Airport Limited working as a mechanical maintenance technician. His employment was terminated on 30 September 2021, following the inclusion of certain border workers in the COVID-19 Public Health Response (Vaccinations) Order 2021 (the Order), and the outbreak in New Zealand of the Delta variant of COVID-19, because he was not vaccinated against Covid-19. He sought an interim order of reinstatement until his claims could be investigated by the Employment Relations Authority. This was so his concerns as to his work and health circumstances could be explored with the employer.

Decision released today

The Employment Court said its role was to reach provisional conclusions on the merits, on the basis of untested evidence.

It granted interim reinstatement, on conditions, to WXN pending the determination of his personal grievance claims for unjustified disadvantage and unjustified dismissal.

Judge Corkill considered that the question of whether WXN was covered by the Order and not an “excluded airport person” was only weakly arguable.

Judge Corkill accepted that there was an arguable case that the steps taken by Auckland International Airport Ltd when consulting with WXN were not those of a fair and reasonable employer.

Judge Corkill accepted that, in the unusual circumstances, the balance of convenience and overall justice favoured WXN being granted interim reinstatement on the basis that WXN remain on paid leave for a period of two months from 30 September 2021 and on unpaid leave thereafter until further order of the Authority, and that the parties attend mediation.

Non-publication

WXN has been granted permanent non-publication of name and identifying details. Judge Corkill found that this was appropriate for several reasons, including that WXN was entitled to privacy in respect of his medical circumstances.