

**IN THE EMPLOYMENT COURT  
WELLINGTON**

**WC 1/09  
WRC 3/09**

IN THE MATTER OF     an application for leave to file challenge  
                                 out of time

BETWEEN                IDEA SERVICES LTD  
                                 Plaintiff

AND                        WARREN DAVID COLLINS  
                                 Defendant

Hearing:            13 February 2009 (on the papers)

Judgment:        16 February 2009

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**JUDGMENT OF JUDGE C M SHAW**

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[1]     The intended plaintiff in these proceedings seeks leave to bring a challenge 4 days out of time. The defendant has advised the Court that he will not contest the challenge.

[2]     The plaintiff's solicitors have filed an affidavit setting out the circumstances of the delay in filing the challenge.

[3]     The Employment Relations Authority issued a costs determination on 12 December 2008. The solicitors took instructions from the plaintiff to challenge the determination and on 23 December 2008 sent a letter to the Registrar of the Employment Court enclosing the statement of claim and filing fee. The firms' offices were then closed until Monday 12 January 2009. The challenge was not physically received by the Court until 13 January 2009 although an envelope had been awaiting collection from the Court's post office box from a date in or about late December 2008. There was an issue of a shortfall in postage.

[4] The time for filing the challenge expired on 9 January 2009.

[5] I am satisfied that the plaintiff took appropriate steps to file the challenge well within time and a combination of the deficiency in the postage and the Christmas break meant that it was not aware of any delay in the Court receiving it until the 13 January 2009.

[6] The delay is therefore both explicable and minimal. As the defendant is not contesting the challenge it is in the interests of justice that this extension be granted.

[7] The application is allowed. Unless there is a pressing need for an oral hearing of the challenge it will be dealt with on the papers. The plaintiff is to file submissions within 21 days of this judgment.

**C M Shaw**  
**JUDGE**

Judgment signed at 4.30pm on 16 February 2009