

**IN THE EMPLOYMENT COURT  
WELLINGTON**

**WRC 18/09  
WC 24/09**

IN THE MATTER OF      a challenge to a determination of the  
   Employment Relations Authority

BETWEEN                      NARINDER PAL SINGH  
   Plaintiff

AND                                ERIC JAMES & ASSOCIATES LIMITED  
   Defendant

Judgment:      11 November 2009

---

**INTERLOCUTORY JUDGMENT OF CHIEF JUDGE GL COLGAN**

---

[1]      This interlocutory judgment deals with the relevance of documents the plaintiff asserts he is entitled to inspect and copy as part of his preparation for trial. The defendant asserts that the documents are not relevant to the case but the plaintiff says they are, or at least may be. If any of the documents are relevant, the defendant asks that the Court give directions for the protection of confidential information in them.

[2]      To determine relevance under reg 38 of the Employment Court Regulations 2000, regard must be had to the nature of the proceeding and the pleadings.

[3]      The case is a challenge to a preliminary determination of the Employment Relations Authority which concluded that Narinder Singh was not an employee of Eric James & Associates Limited (“Eric James”). The Authority did not therefore continue to investigate and determine Mr Singh’s claims for damages for breach of their employment agreement and for penalties. The issue requires a broad inquiry under s6 of the Employment Relations Act 2000 which directs the Court to consider the real nature of the parties’ relationship in determining whether it was one of employment.

[4] The defendant is a risk management brokerage which contracts with insurance companies to market and sell policies, principally for life and health insurance, on behalf of those insurers. Eric James engages sales advisers to sell those policies for the brokerage. Mr Singh was originally in this role but subsequently moved to a more managerial position.

[5] The disputed documents are those between the several insurance companies and Eric James, evidencing the business relationships between them.

[6] Although informal in the sense that they are contained in a letter addressed to the Registrar dated 2 November 2009 from the plaintiff's solicitor rather than in a memorandum as they should have been, I have taken into account submissions made by Mr Dunning in my consideration of the documents the relevance of which is disputed.

[7] I am not satisfied that any of the 10 documents or their contents are or may be relevant to the matter in dispute between the parties. It follows that there is no obligation on the defendant to disclose them to the plaintiff. For completeness, I also record that some of the documents appear to include what might be commercial financial information confidential to the defendant. In view of my conclusion that they are not relevant, no further direction needs to be made on that issue.

[8] The correspondence from the parties' solicitors to the Registrar indicates that there are other unconcluded or problematic document disclosure issues that will need to be dealt with before the scheduled hearing of the case. The Registrar should arrange for a further telephone conference call with the parties to give directions about how this can be done.

GL Colgan  
Chief Judge

Judgment signed at 2 pm on Wednesday 11 November 2009