

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

**I TE KŌTI TAKE MAHI O AOTEAROA
ŌTAUTAHI**

**[2024] NZEmpC 117
EMPC 242/2024**

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

AND IN THE MATTER OF an application for a stay of execution

BETWEEN STELLAR ELEMENTS NEW
ZEALAND LIMITED
Plaintiff

AND ANDREW AMESBURY
Defendant

Hearing: 2 July 2024
(Heard at Christchurch by telephone)

Appearances: D Erickson, counsel for plaintiff
A Fechney, advocate for defendant

Judgment: 2 July 2024

**INTERLOCUTORY JUDGMENT OF JUDGE K G SMITH
(Application for a stay of execution)**

[1] On 19 June 2024, the Employment Relations Authority granted Andrew Amesbury an order providing for his interim reinstatement to the same position he had when dismissed by Stellar Elements New Zealand Ltd, or one no less advantageous to him.¹

[2] The Authority's order took effect from Monday 1 July 2024.²

¹ *Amesbury v Stellar Elements New Zealand Ltd* [2024] NZERA 364 (Member Vincent).

² At [56].

[3] The plaintiff has challenged that determination and seeks to set it aside.

[4] By joint memorandum the parties applied for a stay of the Authority's determination. They did so for pragmatic reasons, which I accept, to preserve the position until such time as the challenge can be heard and decided. The challenge has been granted urgency and there is to be a hearing on 12 July 2024.

[5] I am satisfied that the joint application for a stay can be granted subject to conditions. There will be a stay of execution of the Authority's determination dated 19 June 2024 until the plaintiff's challenge is resolved subject to the following conditions:

- (a) from 1 July 2024 the defendant is to receive his salary and all other financial benefits directly associated with his employment (including medical insurance); and
- (b) the plaintiff is not required to provide to the defendant any work to perform; and
- (c) the defendant is not required to perform any work for the plaintiff.

[6] Leave is reserved to apply to amend or vary the stay or its conditions on reasonable notice.

[7] Costs are reserved.

K G Smith
Judge

Judgment signed at 4.50 pm on 2 July 2024