

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

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

**[2024] NZEmpC 66  
EMPC 149/2023**

IN THE MATTER OF an application for a declaration under s 6(5)  
of the Employment Relations Act 2000

BETWEEN A LABOUR INSPECTOR OF THE  
MINISTRY OF BUSINESS, INNOVATION  
AND EMPLOYMENT  
Plaintiff

AND AIRWAYS CORPORATION OF NEW  
ZEALAND LIMITED  
First Defendant

AND AIRWAYS INTERNATIONAL LIMITED  
Second Defendant

Hearing: On the papers

Appearances: G La Hood and C Milesi-Humm, counsel for plaintiff  
G Davenport, counsel for defendants

Judgment: 30 April 2024

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**CONSENT JUDGMENT OF JUDGE K G SMITH**

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[1] The plaintiff sought a declaration under s 6 of the Employment Relations Act 2000 that David Ayre and Jamin Baker were employees of the first defendant while undertaking the Air Traffic Control (ATC) training programme.

[2] Separately, the plaintiff issued a proceeding in the Employment Relations Authority claiming arrears of wages and other entitlements for all persons engaged on the ATC training programme.

[3] The parties have reached an agreement to resolve this proceeding and that proceeding before the Authority which, for completeness, is as follows:

- (a) Mr Ayre and Mr Baker were in an employment relationship with Airways Corp of New Zealand Ltd for part two of the ATC training programme.
- (b) Although not related to the Court proceeding but relevant to the proceeding before the Authority, for part two of the ATC training programme the relationship between Airways Corp of New Zealand Ltd and persons undertaking that training will be treated as employment from the date of the next intake, scheduled to be on or about 19 August 2024.

[4] Given the scope of agreement the Court has been asked to issue a consent judgment in so far it relates to matters before it.

[5] I am satisfied a judgment is appropriate and order by consent that David Ayre and Jamin Baker were, during their participation in part two of their ATC training programme, employed by Airways Corp of New Zealand Ltd.

[6] There is no issue as to costs.

K G Smith  
Judge

Judgment signed at 4.45 pm on 30 April 2024