

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

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

**[2025] NZEmpC 104
EMPC 139/2025**

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 ACG EDUCATION LIMITED
 Plaintiff

AND TIM JENNISON
 Defendant

Hearing: On the papers

Appearances: P Skelton KC and EL Peterson, counsel for plaintiff
 S Langton and E Crowley, counsel for defendant

Judgment: 23 May 2025

**CONSENT INTERLOCUTORY JUDGMENT OF JUDGE KATHRYN BECK
(Application for a stay of execution)**

[1] This proceeding concerns a non-de novo challenge by the plaintiff to a determination of the Employment Relations Authority dated 27 February 2025.¹

[2] In its determination, the Authority awarded the defendant:

- (a) \$25,000 compensation under s 123(1)(c)(i) of the Employment Relations Act 2000;
- (b) \$3,372.38 as special damages for legal costs;

¹ *Jennison v ACG Education Ltd* [2025] NZERA 119.

- (c) 12 months' lost earnings being \$392,538 gross and holiday pay on this amount, being \$31,403.04;
- (d) \$196,269 for his 2020 short-term incentive (STI), along with holiday pay on that amount, being \$15,701.52; and
- (e) Five per cent of the lost benefit of the G shares.²

[3] On 12 May 2025 the plaintiff paid to the defendant the remedies awarded to him by the Authority at [2](a) and (b) above, and interest on those amounts. These remedies do not form part of the challenge.

[4] The remaining remedies awarded by the Authority at [2](c), (d) and (e) above are being challenged.

[5] By consent, the parties seek orders from the Court to stay execution of the Authority's determination pending the final determination of the challenge on the following conditions:

- (a) The plaintiff will prosecute its challenge diligently.
- (b) The plaintiff will pay \$713,283.34 into Russell McVeagh's trust account, to be held on interest-bearing deposit pending the final determination of the plaintiff's challenge by agreement or Court order. Such sum is made up as follows:
 - (i) \$423,941.04 in relation to the award of lost earnings and holiday pay;
 - (ii) \$211,970.52 in relation to the 2020 STI benefit; and
 - (iii) \$77,371.78 in respect of the G shares (without prejudice to either party's position on liability and valuation).

² An executive share scheme operated by the Inspired Education group of companies of which ACG Education Ltd is a part.

- (c) On final determination of the plaintiff's challenge, the sum held in the solicitors' trust account, together with any accrued interest and less any applicable tax, is to be paid out to the parties in accordance with the outcome of the challenge by agreement or at the direction of the Court.
- (d) If interest on the Authority's awards is more than the amount of interest accrued on the funds held in the solicitors' trust account, the plaintiff will pay the defendant the balance due.

[6] Accordingly, by consent, I order that execution of the Authority's determination be stayed on condition that the sum of \$713,283.34 is paid by the plaintiff into Russell McVeagh's trust account within 14 days of the date of this judgment, to be held on the conditions set out at [5] above.

[7] Costs are reserved.

Kathryn Beck
Judge

Judgment signed at 5 pm on 23 May 2025