

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

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

**[2025] NZEmpC 206
EMPC 265/2025**

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

AND IN THE MATTER OF an application for non-publication

BETWEEN FELICITY SCOTT
 Plaintiff

AND DAMAR INDUSTRIES LIMITED
 Defendant

Hearing: 11 August 2025
 Further submissions filed on 25 August 2025
 (Heard at Auckland)

Appearances: A Twaddle and A Clarke, counsel for plaintiff
 R Scott and A McGhie, counsel for defendant

Judgment: 15 September 2025

JUDGMENT OF JUDGE M S KING

[1] On 11 August 2025 the Court heard a challenge by the plaintiff, Ms Scott, to a determination of the Employment Relations Authority (the Authority) in which Ms Scott’s application for interim reinstatement was declined.¹

[2] The challenge was pursued by way of a de novo hearing and heard on a priority basis. It is solely concerned with whether Ms Scott ought to be reinstated to her role as Head of Information Technology at Damar Industries Ltd (Damar), on an interim basis. It does not decide whether she was unjustifiably disadvantaged or dismissed.

¹ *Scott v Damar Industries Ltd* [2025] NZERA 320.

Nor does it decide whether, if she was unjustifiably dismissed, she will be reinstated on a permanent basis; or what additional/or other relief she might be entitled to.

[3] This judgment summarises the Court's main conclusions and its formal orders, so that the parties know where they stand. A reasons judgment will follow as soon as practicable.

[4] As is usual for applications of this sort, evidence was produced by way of affidavits and as such, the Court proceeds on the basis of untested evidence until the substantive hearing.

[5] I am satisfied to the necessary threshold that Ms Scott has an arguable case for unjustified dismissal with some serious or arguable, albeit not certain, prospects of success. She also has a case for permanent reinstatement, although not a particularly strong one.

[6] However, at an interim stage where the justification for the dismissal has not been properly tested, the practicality and reasonableness of reintegration is considerably less. The alleged misconduct by Ms Scott and the significant impact on NI² if she was returned to the workplace on an interim basis, is relevant to that assessment.

[7] Standing back and looking at the position overall, I am satisfied that an order for interim reinstatement is not in the interests of justice. The application for interim reinstatement is unsuccessful.

[8] The Authority ordered that the names of the employees involved in the complaint and investigation process, or named in an affidavit by another employee, are not to be published. That interim non-publication order is also to apply to these proceedings.

M S King
Judge

Judgment signed at 2.45 pm on 15 September 2025

² The random initials assigned by the Authority to this witness. See *Scott v Damar Industries Ltd*, above n 1, at [14].