

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 39/10
5273077

BETWEEN BRENDAN JOHN BLACK
 Applicant

AND BRIAN VINCENT RIDLEY
 Respondent

Member of Authority: Philip Cheyne

Representatives: Brendan John Black, the Applicant in person
 Brian Vincent Ridley, the Respondent in person

Determination: 24 February 2010

DETERMINATION OF THE AUTHORITY

[1] Brendan Black worked for Brian Ridley in New Zealand from April 2001 until April 2006.

[2] In July 2009 Mr Black sought and was given leave to serve proceedings for the recovery of arrears of wages and holiday pay on Mr Ridley who by that time was living in Hong Kong. Mr Black was able to serve these proceedings on Mr Ridley but no statement in reply was lodged. Arrangements were made for a phone conference. The Authority was able to phone Mr Black but not Mr Ridley so an investigation meeting was scheduled for March 2010.

[3] The Authority served a notice of meeting on Mr Ridley. That prompted him to send an email to the service agent advising that he had been declared bankrupt in New Zealand on 29 July 2009. That information is confirmed on the Insolvency Office website. The Authority then drew Mr Black's attention to Mr Ridley's bankruptcy and the provisions of the Insolvency Act 2006. In response Mr Black says that he wants a judgment against Mr Ridley so he can pursue this through the office of the Official Assignee. He wants to proceed with the investigation meeting.

[4] The difficulty for Mr Black lies in s.76(1) of the Insolvency Act 2006. That provides that *On adjudication, all proceedings to recover any debt provable in the bankruptcy are halted*. Mr Black's proceedings in the Authority are caught by this provision so they are *halted*.

[5] If Mr Black wants to pursue his claims further he must take up the matter with the Official Assignee. The Authority cannot assist him further at this stage.

Philip Cheyne
Member of the Employment Relations Authority