

ATTENTION IS DRAWN TO THE
ORDER PROHIBITING PUBLICATION
OF CERTAIN INFORMATION REFERRED
TO IN THIS DETERMINATION

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

[2011] NZERA Wellington 190
5330228

BETWEEN KAYDEN CACHEMAILLE
 Applicant

AND HERBERT CONSTRUCTION
 COMPANY LTD
 Respondent

Member of Authority: G J Wood

Representatives: Alan Cressey for Applicant
 Lyn Porter for Respondent

Submissions Received: By 24 November 2011

Determination: 25 November 2011

DETERMINATION OF THE AUTHORITY

[1] On 21 November 2011 the respondent (Herbert Construction) undertook to supply the applicant (Mr Catchemaille) with relevant documentation on what I described as *the state of its books*, by 24 November. This was to justify its claim that Mr Catchemaille was justifiably dismissed as a result of a sustained downturn in work.

[2] The respondent is concerned that confidential company information may be, if provided to Mr Catchemaille, misused by him or his Mother, who, it appears, has relationship property issues with the principal of the respondent, Mr Malcolm Herbert.

[3] On behalf of Mr Catchemaille his representative, Mr Cressey, to whom Herbert Construction would provide such material on a confidential basis, has made it clear that he would be obligated to show all such material to Mr Catchemaille, and his Mother and/or accountant so that they could comment on its veracity.

[4] In these circumstances I determine, pursuant to clause 10 of Schedule 2 to the Act, that any evidence relating to the financial position of the respondent shall not be published. In this context, any such information must be provided to the applicant, but must not be otherwise utilised by him or his advisers in any other proceedings

and not otherwise published, except to the minimum extent necessary for him to gain advice for these proceedings.

[5] Finally, I note that Authority investigation meetings are held on a *no surprises* basis. If therefore, Herbert Construction wishes to rely on any documentation tending to show a downturn in its work and/or financial position, it must provide such material by 1 December 2011.

GJ Wood
Member of the Employment Relations Authority