

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

**I TE KŌTI TAKE MAHI O AOTEAROA
TE WHANGANUI-A-TARA**

**[2024] NZEmpC 208
EMPC 438/2024**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for urgency
AND IN THE MATTER OF	an application for stay of proceedings
BETWEEN	ALLIED INVESTMENTS LIMITED Plaintiff
AND	PETER JONES Defendant

Hearing: 4 November 2024
(Heard by telephone)

Appearances: S Hornsby-Geluk, counsel for plaintiff
G Ogilvie, advocate for defendant

Judgment: 4 November 2024

**INTERLOCUTORY JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS
(Application for urgency)
(Application for stay of proceedings)**

[1] The plaintiff has filed a de novo challenge to a determination of the Employment Relations Authority (the Authority) finding that the defendant was unjustifiably constructively dismissed and ordering remedies in his favour.¹ The Authority also dismissed counterclaims that the company had brought against the defendant.

¹ *Jones v Allied Investments Ltd* [2024] NZERA 595 (Member Kennedy-Martin).

[2] The sums awarded in the defendant's favour were payable within 28 days of the Authority's determination; that timeframe expires today.

[3] On Friday 1 November 2024 the company filed an application for a stay coupled with an application for urgency, and an affidavit in support of the applications. The defendant filed a notice of opposition to the application for urgency this morning and I heard from the representatives today.

[4] At the heart of the defendant's opposition is a concern that the application was delayed and that, if urgency is granted, he will be required to respond under pressure.

[5] The delay, while regrettable, has been explained, and ought not to preclude the company from having its application for stay dealt with on its merits. In the circumstances, I considered it just to make an interim order for stay pending consideration of the company's application for a stay. As I explained, this would enable the defendant an opportunity to file a considered response to the company's stay application and to address the issues raised in the affidavit filed in support of it.

[6] The plaintiff had identified the possibility of their stay application being dealt with on an agreed basis, namely by payment into Court. I discussed this option with Mr Ogilvie. He will take instructions on that proposal and advise the Court if it is considered a suitable way forward. If so, a consent judgment can be issued and the stay application dealt with on an agreed basis.

[7] If the matter cannot be dealt with by consent, the following timetabling directions are made to progress the stay application to hearing:

- (a) The defendant is to file and serve a notice of opposition and affidavit in opposition to the application for a stay within two weeks of today's date. As I pointed out during the telephone conference, the affidavit should particularly address the matters raised in Mr McDowall's affidavit, including in respect of financial capacity.

- (b) The plaintiff is to file submissions in support of the application for a stay within a further one week period.
- (c) The defendant is to file any submissions in opposition to the stay within a further one week period.
- (d) The registry is to then refer the file back to me for a decision on the papers.

[8] As I say, it may not be necessary for the parties to incur the expense associated with an opposed application if the matter can be dealt with on an agreed basis.

[9] Leave is reserved to apply to the Court for further directions or orders on reasonable notice.

[10] Costs are reserved.

Christina Inglis
Chief Judge

Judgment signed at 4.45 pm on 4 November 2024