



# New Zealand Employment Relations Authority Decisions

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## Evans-McLeod v Telecom New Zealand Limited (Auckland) [2011] NZERA 504; [2011] NZERA Auckland 315 (19 July 2011)

Last Updated: 23 August 2011

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2011] NZERA Auckland 315 5315212

BETWEEN PAUL EVANS-MCLEOD

Applicant

AND TELECOM NEW ZEALAND

LIMITED Respondent

Member of Authority: Representatives:

Investigation: Determination:

K J Anderson

P Evans-McLeod, In person J Rooney, Counsel for Respondent

On the papers

19 July 2011

### Employment Relationship Problem

### DETERMINATION OF THE AUTHORITY

parties consequently entered into a settlement agreement signed by a mediator pursuant to [section 149](#) of the [Employment Relations Act 2000](#) (the Act).

[3] Mr Evans-McLeod then sought to pursue a personal grievance action before the Authority. The outcome was that via a determination<sup>1</sup> the Authority found that Mr Evans-McLeod was barred by [s. 149](#) of the Act from pursuing a personal grievance. In arriving at this conclusion, the Authority also found that:

[24] I find that both parties freely entered into the final and binding Record of Settlement in which they agreed, among other things, that Mr Evans-McLeod would resign and Telecom would pay him a sum of money.

[25] Further there is no evidence that Mr Evans-McLeod's resignation resulted from any inappropriate or unlawful action on Telecom's part or by anybody else. Mr Evans-McLeod was represented by an experienced officer of the EPMU and entered into the Record of Settlement after mediation and subsequent negotiation with the assistance of the mediator.

[4] One reasonably could have anticipated that the explicit determination of the Authority (above) should have been the end of the litigation path for Mr Evans-McLeod. However, pursuant to the provisions of the [Privacy Act 1993](#), Mr Evans-McLeod has since obtained information that Telecom has "marked" his personnel file "do not re-employ" Mr Evans-McLeod alleges that he has been "blacklisted" by Telecom and that he is unable to obtain re-employment in the telecommunications industry, hence his claim for a remedy from the Authority in this matter.

### Determination

[5] While Mr Evans-McLeod has provided the Authority with considerable material that he believes supports his attempt to re-litigate matters with Telecom, unfortunately the Authority is unable to give consideration to any of this material. This is because the Authority does not have jurisdiction to do so. Pursuant to section 161(1) of the Act:

The Authority has exclusive jurisdiction to make determinations **about employment relationship problems** generally, including - (Emphasis added)

1 AA 187/10, Member Campbell, 26 April 2010.

(a) ...

(b) ...

[6] The insurmountable problem that Mr Evans-McLeod has, in regard to pursuing the current claim, is that he is no longer in an "*employment relationship*" with Telecom<sup>[1]</sup> and hence it follows, that he is not able to pursue any further actions within the Employment Relations Authority relating to his past employment with Telecom. This is because the Authority does not have jurisdiction to hear any further claims from him. Therefore, the current claim is dismissed for want of jurisdiction.

[7] Given that Mr Evans-McLeod continues to pursue what appears to be little short of a vexatious and misguided campaign of litigation against Telecom, I would trust that he now understands that it is just not possible for him to bring any other matters to the Authority pertaining to his past relationship with Telecom.

**Costs:** Costs are reserved. The respondent has 28 days from the date of this determination to file and serve submissions with the Authority. The applicant has a further 14 days to file and serve submissions.

**K J Anderson**  
**Member of the Employment Relations Authority**

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<sup>[1]</sup> And has not been since on or about 20th August 2009.

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