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FGH v RST (Wellington) [2017] NZERA 2089; [2017] NZERA Wellington 89 (21 September 2017)

Last Updated: 3 October 2017

IN THE EMPLOYMENT RELATIONS AUTHORITY WELLINGTON

[2017] NZERA Wellington 89
5623483

BETWEEN FGH Applicant

AND RST Respondent

Member of Authority: M B Loftus

Representatives: Philip McCabe and Stuart Henderson, Counsel for
Applicant

Stephanie Dyhrberg and Alistair Clarke, Counsel for

Respondent Investigation Meeting: On the papers Determination: 21 September 2017

DETERMINATION OF

THE EMPLOYMENT RELATIONS AUTHORITY

[1] On 22 August 2017 I issued a substantive determination in respect to the above matter.¹ That was followed by two determinations² granting a temporary prohibition on publishing the original determination pending the filing of a challenge in the Employment Court which would be accompanied by an application for ongoing suppression. Those orders were to cease to have effect today.

[2] The challenge has now been filed and by memo the Court has also granted interim suppression.³ Specifically the Court said:

... that until further order of the Court, no person is to publish the names of the parties to this proceeding, or any version of the determinations of the Authority to which the proceeding relates, which may contain the names of, or otherwise identify, the parties.

¹ [2017] NZERA Wellington 78

² [2017] NZERA Wellington 80 and [2017] NZERA Wellington 85

³ Memo of Judge Corkill dated 15 September 2017

[3] That leaves a decision about whether or not to issue an anonymised version of the original determination or await the Court's consideration of the suppression application which will occur on 4 October 2017.

[4] I believe it appropriate I await the Court's decision before deciding the next steps. In doing so I note the short time frame involved and the fact both parties seem to agree this is the appropriate course. The respondent expressly says so and the applicant's current application is the ERA's current suppression order ... *extend until the Employment Court makes its decision.*

[5] I therefore order the prohibition on the adding substantive determination⁴ to MBIE's public database or otherwise distributing it beyond the party's remain in effect until either amended or the determination is rewritten in an anonymised form.

[6] A decision about the next step will await the Court's ruling.

[7] This determination replaces that of 15 September 2017.⁵

M B Loftus

Member of the Employment Relations Authority

⁴ n 1 above

⁵ [2017] NZERA Wellington 85

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