



Employment Court of New Zealand

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Gate Gourmet New Zealand Limited v Sandhu [2020] NZEmpC 133 (26 August 2020)

Last Updated: 31 August 2020

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2020\] NZEmpC 133](#)

EMPC 217/2020

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	applications for leave to appear as interveners
BETWEEN	GATE GOURMET NEW ZEALAND LIMITED First Plaintiff
AND	SHAUN JOILS Second Plaintiff
AND	SUHKJEET SANDHU First Defendant
AND	HUIPING WU Second Defendant
AND	SELLIAH NESUM NIRANJALA Third Defendant
AND	ROSALINA LEANNA Fourth Defendant
AND	SUTHARSHINI ANTHONY RUPS MIRANDA Fifth Defendant

Hearing: On the papers

Appearances: E Butcher, counsel for plaintiffs
M O'Brien, counsel for defendants
P Kiely, counsel for Business New Zealand
P Cranney, counsel for New Zealand Council of Trade Unions

Judgment: 26 August 2020

GATE GOURMET NEW ZEALAND LIMITED v SUHKJEET SANDHU [\[2020\] NZEmpC 133](#) [26 August 2020]

INTERLOCUTORY JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS

(Applications for leave to appear as interveners)

[1] This interlocutory judgment relates to an application by Business New Zealand and the New Zealand Council of Trade Unions (the NZCTU) for leave to intervene and be heard in these proceedings.

[2] In summary, the proceedings relate to the application of the [Minimum Wage Act 1983](#) to employees who did not carry out work during the Alert Level 4 lockdown (but were otherwise ready and willing to work) and were being paid 80 per cent of their normal pay with the support of the Government's wage subsidy scheme.

[3] The applications arise against the backdrop of a challenge to a determination of the Employment Relations Authority, finding that the employer (Gate Gourmet) breached its obligations in relation to the way in which it paid its employees during the period at issue.¹

[4] Given the obvious importance of the issues, and the desirability of providing a degree of certainty to the broader business community and to employees as to their rights and obligations, I considered it appropriate to convene a full Court to hear the challenge and directed that it be heard promptly. I also directed that Business New Zealand and the NZCTU be notified of the proceedings and invited them to apply for leave to intervene and be heard.

[5] Both organisations have now applied for leave to intervene, and both parties consent to such orders being made.

[6] Having regard to the matters at issue, and their likely broader impact, it is appropriate that the applications be granted. Leave is granted on the following basis:

1 *Sandhu v Gate Gourmet New Zealand Ltd* [2020] NZERA 259 (Member O'Sullivan).

- Business New Zealand and the NZCTU are to be served by the plaintiff with all pleadings and documents filed in the proceeding, and a copy of any agreed bundle of documents prepared for the substantive hearing.
- Business New Zealand and the NZCTU may file and serve written submissions no later than two days before the date set for hearing.
- Business New Zealand and the NZCTU may appear by counsel at the hearing, but not call evidence.
- Business New Zealand and the NZCTU may address the Court on their submissions at the hearing.
- Neither Business New Zealand nor the NZCTU may apply for costs against either party.

[7] The full Court hearing is set down for one day in Auckland on 13 October 2020. The full Court will comprise Judge Joanna Holden, Judge Kathryn Beck, and myself presiding.

[8] Costs are reserved.

Christina Inglis Chief Judge

Judgment signed at 12.45 pm on 26 August 2020