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HP New Zealand Limited v Keogan (Auckland) [2017] NZERA 108; [2017] NZERA Auckland 108 (10 April 2017)

Last Updated: 19 April 2017

**ATTENTION IS DRAWN TO THE ORDER PROHIBITING PUBLICATION IN A. OF THIS DETERMINATION
IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND**

[2017] NZERA Auckland 108
3005591

BETWEEN HP NEW ZEALAND LIMITED Applicant

A N D JAMES KEOGAN Respondent

Member of Authority: Rachel Larmer

Representatives: Mr Towner, Counsel for Applicant

Mr Patterson, Counsel for the Respondent

Investigation Meeting: On the papers

Date of Determination: 10 April 2017

INTERIM NON-PUBLICATION ORDER OF THE AUTHORITY

A. An interim non-publication order applies to the commercially sensitive information contained in paragraph 35 of Mr Grant Hopkins' statement dated 07 April 2017 and to document 3 which is referred to in paragraph 35 of Mr Hopkins' statement until further order of the Authority.

Employment relationship problem

[1] HP New Zealand Limited (HP NZ) and Mr Keogan are parties in an Authority matter which has a substantive investigation meeting set down for 12 April 2017.

[2] As per the Authority's timetabling directions HP NZ has filed additional evidence in support of its application this morning consisting of a statement in reply from Mr Grant Hopkins and various additional documents which were appended to that statement.

[3] HP NZ says that paragraph 35 of Mr Hopkins' statement dated 07 April 2017 which was filed today and document 3 which was referred to in paragraph 35 and was appended to Mr4 Hopkins' statement contains commercially sensitive information such as customer and partnership information, product and launch strategies (excluding publically available information), and sensitive business strategy information.

[4] HP NZ seeks that the interim non-publication order issued on 03 April 2017¹ regarding the viewing, use and disclosure of the commercially sensitive information identified in that determination be varied to include the commercially sensitive information identified in paragraph [3] above.

[5] Mr Patterson advises that Mr Keogan does not oppose the variation which has been sought by HP NZ being made.

[6] I am satisfied this is an appropriate matter in which to exercise the Authority's discretion to grant the order sought at paragraph 2 of Mr Towner's application dated

10 April 2017.

[7] The interim non-publication order dated 03 April 2017² is varied to include restrictions on publication of paragraph 35 and document 3 of Mr Hopkins' statement dated 07 April 2017.

[8] This variation prohibits Mr Keogan and his counsel from allowing others to view or discuss the contents of paragraph 35 of Mr Hopkins' statement dated 10 April

2017 and document 3 which was appended to Mr Hopkins' reply statement which was filed with the Authority today.

[9] I am satisfied that the commercially sensitive information was provided to assist the Authority with its investigation and that the information identified by Mr Towner in his application today is commercially sensitive in nature.

[10] I am satisfied that this non-publication order goes no further than what is necessary to preserve the confidentiality of the information in issue and that it is in the interests of justice to issue a variation to the interim non-publication order dated 03

April 2017.

¹ [2017] NZERA Auckland 98.

² Ibid.

[11] Accordingly, pursuant to clause 10(1) Scheduled 2 of the [Employment Relations Act 2000](#) I make an order varying the interim non-publication order by adding paragraph 35 of Mr Hopkins' reply statement dated 07 April 2017 and document 3 which is appended to that statement to the list of commercially sensitive information that may not be disclosed or discussed with others by Mr Keogan and his representative.

Rachel Larmer

Member of the Employment Relations Authority

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