



Employment Court of New Zealand

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Halse v Employment Relations Authority [2024] NZEmpC 169 (6 September 2024)

Last Updated: 12 September 2024

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2024\] NZEmpC 169](#)

EMPC 25/2022

IN THE MATTER OF	an application for judicial review
AND IN THE MATTER OF	an application for stay of proceedings
BETWEEN	ALLAN GEOFFREY HALSE Applicant
AND	EMPLOYMENT RELATIONS AUTHORITY First Respondent
AND	FIRST SECURITY GUARD SERVICES LIMITED Second Respondent
AND	AN EMPLOYEE Third Respondent

Hearing: On the papers

Appearances: Applicant in person
No appearance for respondents
S Jerebine, counsel assisting the Court

Judgment: 6 September 2024

INTERLOCUTORY JUDGMENT (NO 4) OF JUDGE B A CORKILL

(Application for stay of proceedings)

[1] On 30 November 2023, I stayed this proceeding until resolution of a particular Court of Appeal proceeding, which was to deal with an appeal of a restraint order that had been made by the High Court under [s 166](#) of the [Senior Courts Act 2016](#).¹

¹ *Halse v Employment Relations Authority (No 3)* [\[2023\] NZEmpC 215](#).

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[2] Although Mr Halse strongly contested a conclusion that the restraint order could apply to this proceeding, a contrary view was expressed by Ms Jerebine, counsel assisting the Court. I therefore concluded that the prudent course was to wait until the appeal had been resolved. Were the restraint order to remain in its then form, it was arguable that it would apply to this proceeding, and Mr Halse could not therefore advance it.

[3] On 24 June 2024, the Court of Appeal dismissed the appeal brought by Mr Halse.

[4] However, on 22 July 2024, Mr Halse informed this Court that an application for leave to bring a civil appeal had been filed in the Supreme Court in respect of that judgment. In an earlier submission, he said that submissions in relation to the leave application were to be filed by 19 August 2024.

[5] Mr Halse also advised the Court that there is another proceeding before the Court of Appeal where the status of the restraint order is to be considered for the purposes of a strike-out application. Submissions for the hearing of the strike-out application were timetabled up to 11 June 2024, with the issues to be resolved subsequently on the papers.

[6] In light of consideration to be given to the restraint order in both the Supreme Court (under the leave application referred to above) and in the Court of Appeal (under the strike-out application referred to above), Mr Halse initially submitted that the stay granted in this Court should be continued. However, in a subsequent memorandum, he stated that he no longer sought a stay and requested that the matter in this Court should proceed. He relied on a statement made by the Court of Appeal which I infer he considered should persuade this Court that the restraint order could not apply to the present proceeding. However, that judgment itself is now the subject of an application for leave to appeal.

[7] Were this Court to proceed, it would have to reach its own conclusion as to the application of the restraint order and, subject to the outcome of that, whether this proceeding is in any event moot.

[8] Given the attention which is to be given imminently to the restraint orders by the senior courts, I am not persuaded that this Court should, at the same time, also consider the same issue. In a situation which has become somewhat complex, it would be preferable for this Court to await further developments. A conclusion by this Court as to the scope of the restraint order may turn out to be shortlived.

[9] In the circumstances, I have concluded that the interim order of stay should be extended until such time as both the Court of Appeal has resolved the application for strike-out, and the Supreme Court has determined the application for leave to appeal.

[10] Once that point is reached, this Court can review what procedural steps may be appropriate. Mr Halse should advise this Court once the decisions of the senior courts are available.

B A Corkill Judge

Judgment signed at 11.15 am on 6 September 2024

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