

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKAURAU ROHE**

[2020] NZERA 235  
3108332

BETWEEN                      IGNITE SERVICES LIMITED  
Applicant

AND                              ADAM TORRENS TAYLOR  
Respondent

Member of Authority:      Anna Fitzgibbon

Representatives:            Susannah Maxfield, counsel for the Applicant  
Madeleine Lister, counsel for the Respondent

Date of Determination:     18 June 2020

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1]     The parties are in an ongoing employment relationship. On 11 June 2020, the applicant, Ignite Services Limited (Ignite) raised an urgent employment relationship problem in the Authority claiming that the respondent, Mr Adam Taylor was in breach of certain express and implied terms of his employment agreement. The alleged breaches related to a project Mr Taylor was involved in.

[2]     Ignite sought orders from the Authority including a compliance order pursuant to s137 of the Act that Mr Taylor comply with his employment duties, an enquiry into damages allegedly suffered by Ignite as a result of Mr Taylor's alleged breaches, interest on any damages awarded, an injunction prohibiting Mr Taylor from being engaged or involved in one of Ignite's projects on his own account and costs.

[3] Mr Taylor denies breaching the terms of his employment agreement. He says in the circumstances Ignite has no entitlement to the remedies it seeks.

### **Urgent directions and orders**

[4] The Authority issued urgent directions and orders on 11 and 15 June 2020 in respect of the employment relationship problem and the manner in which it would be investigated.

[5] Mr Taylor provided the Authority and Ignite with a number of undertakings in respect of the matters raised by Ignite and before the Authority.

### **Investigation meeting**

[5] An urgent preliminary Investigation Meeting was held in the Authority today.

[6] During the course of the investigation, the parties were able to reach agreement regarding certain interim arrangements, until such time as the Authority investigates the applicant's substantive claims.

### **Further Orders**

[7] The Independent IT Expert, Mr Brent Whale of Computer Forensic Solutions appointed by the Authority, is to perform the forensic examination (as set out in draft orders in Schedule 1 of the Memorandum of Counsel for the Applicant dated 11 June 2020 and filed in the Authority, namely clauses 5 and 5 (b), (c),(d),(e),(f) and (g)) as follows:

*5.b. access and clone the Devices, in order to search for the Relevant Evidence. The independent IT Expert may, in order to clone the devices, remove the devices, and retain them in his possession (pending further order of the Authority), so they can be searched for the Relevant Evidence;*

*c. access and clone any online document storage platforms, as described in paragraph 5(a)(ii), in order to search for the Relevant Evidence;*

*d. access and clone any web based email services, as described in paragraph 5(a)(iii), in order to search for the Relevant Evidence;*

*e. access and clone any internet based messenger services, as described in paragraph 5(a)(iv), in order to search for the Relevant Evidence;*

- f. access and clone any direct messaging services (carrier to carrier), as described in paragraph 5(a)(v), in order to search for the Relevant Evidence;*
- g. access and clone any accounting systems, order booking systems, Customer Relations Management systems, either locally stored on devices or web-based, as described in paragraph 5(a)(vi), in order to search for the Relevant Evidence.*

**And a further order by agreement that:**

- a) Mr Taylor will cooperate with the forensic investigation being undertaken by Mr Whale, and will provide any passwords, usernames as required by him, in order to undertake a search and examination of computer systems as required in clauses 5((b) to (g) above .

**Orders in respect of Mr Taylor's personal information (personal information)**

- b) The Authority orders that Mr Taylor's personal information, obtained by Mr Whale during his search and examination, will be provided exclusively to counsel for the parties
- c) Counsel will each provide the other with written undertakings that this personal information will not be shared with, or disclosed to any other person, including their clients
- d) Copies of counsels' written undertakings will be provided to the Authority, upon signing
- e) Counsel will meet and agree on what personal information is relevant to the matters before the Authority and provide this information to the Authority.
- f) If any issues arise between counsel as to whether personal information is relevant or not, the information in dispute will be sent to the Authority for it to determine its relevance.

**Key word search orders**

- g) Counsel for the parties will attempt to agree on a list of “keywords” for the purposes of the forensic investigation as follows:
  
- h) By the close of business on 23 June 2020, counsel for the applicant will provide counsel for the respondent a list of keywords,
  
- i) Counsel for the parties will attempt to agree the list of key words by close of business on 25 June 2020
  
- j) If counsel are able to agree the list of key words, Mr Whale will commence his forensic examination as agreed,
  
- k) If counsel cannot agree a list of key words, the parties may apply to the Authority for assistance.

**Costs**

Costs are reserved.

**Anna Fitzgibbon**  
**Member of the Employment Relations Authority**