

Attention is drawn to the order prohibiting publication of certain information in this matter

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2024] NZERA 759
3186300

BETWEEN	KXS Applicant
AND	NXJ Respondent

Member of Authority:	Eleanor Robinson
Representatives:	Stephen Langton and Laura Briffett, counsel for the Applicant Kirsti Laird and Penny Swarbrick, counsel for the Respondent
Determination:	18 December 2024

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

- [1] The parties, KXS and NXJ have successfully resolved matters between them.
- [2] The Authority had previously ordered interim non-publication orders.¹
- [3] The parties have now applied for those orders to be made permanent on the basis that since there will be no substantive hearing or determination in this matter, the privacy concerns raised in the application for interim non-publication orders remain, meaning, unless permanent non-publication orders are made:

¹ *KXS v NXJ* [2023] NZERA 509, subsequently reissued as *KXS v NXJ* [2023].

- i. There will be no certainty or confirmation for those employees whose personal information was alleged removed by NXJ as to whether their information was removed or not, and if it was, what happened to it; and
- ii. as a result, those employees (many of whom remain in ongoing employment relationships with KXS) will likely lose confidence in KXS's ability to safeguard their information and ensure its security.

Non-publication order

[4] I am satisfied that it is appropriate that the permanent non-publication order should be made. As previously set out in determination [2023] NZERA 509, I regard any potential privacy breach as a serious matter where third party individuals could be adversely affected.

[5] **I order that the interim non-publication order that the name of the Applicant and the Respondent and any information which may identify them be made a permanent non-publication order pursuant to clause 10 (2) of Schedule 2 of the Act.**

Costs

[6] There is no order for costs.

Eleanor Robinson
Member of the Employment Relations Authority