



Employment Court of New Zealand

You are here: [NZLII](#) >> [Databases](#) >> [Employment Court of New Zealand](#) >> [2012](#) >> [2012] NZEmpC 30

[Database Search](#) | [Name Search](#) | [Recent Decisions](#) | [Noteup](#) | [LawCite](#) | [Download](#) | [Help](#)

Kim v Thermosash Commercial Limited [2012] NZEmpC 30 (24 February 2012)

Last Updated: 7 March 2012

IN THE EMPLOYMENT COURT AUCKLAND

[\[2012\] NZEmpC 30](#)

ARC 54/11

IN THE MATTER OF an application for stay of proceedings

BETWEEN WILSON KIM Applicant

AND THERMOSASH COMMERCIAL LIMITED

Respondent

Hearing: Following a telephone conference call on 24 February 2012 (Heard at Auckland)

Counsel: Judith Moore, counsel for plaintiff

Jo Douglas, counsel for defendant

Judgment: 24 February 2012

INTERLOCUTORY JUDGMENT OF JUDGE CHRISTINA INGLIS

[1] The applicant applies for stay of proceedings in relation to a costs determination¹ of the Employment Relations Authority.

[2] The application was advanced on an urgent basis, as Mr Kim is facing bankruptcy proceedings in the High Court early next week (on 28 February 2012). It is said that the stay is necessary to avoid prejudice to Mr Kim, although no evidence was filed in support of the application.

[3] The application was opposed and I heard from counsel during a hearing conducted by telephone this morning.

[4] The application for stay is ill-founded. The Authority and the Court each have the power to order a stay of proceedings under the determination to which the election relates (reg 64 [Employment Court Regulations 2000](#)). The determination² before the Court, and which is the subject of a de novo challenge, is the Authority's substantive determination dismissing Mr Kim's grievance. No challenge has been brought in relation to the Authority's subsequent costs determination.

[5] Counsel argued that the challenge before the Court implicitly included a challenge to costs. I do not accept that argument. The election does not relate (in terms of reg 64(1)) to the Authority's costs determination. It is expressed to relate solely to the determination dismissing his grievance.

[6] If Mr Kim wishes to apply for a stay of the Authority's costs determination he must apply to the Authority to do so.

[7] The application is accordingly dismissed. [8] Costs are reserved.

Christina Inglis

Judge

Judgment signed at 11.30am on 24 February 2012

NZLII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#)

URL: <http://www.nzlii.org/nz/cases/NZEmpC/2012/30.html>