

**Attention is drawn to an  
order prohibiting publication  
of certain information**

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2026] NZERA 22  
3422364

BETWEEN	LDE Applicant
AND	NIY Respondent

Member of Authority:	Peter van Keulen
Representatives:	James Hobcraft, advocate for the Applicant Jane Taylor, counsel for the Respondent
Investigation Meeting:	On the papers
Submissions Received:	13 and 14 January 2026 from the Applicant 14 January 2026 from the Respondent
Date of Determination:	14 January 2026

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**SECOND DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] I issued a determination in this matter on 6 January 2026 (the First Determination).<sup>1</sup> The First Determination dealt with LDE's application for interim reinstatement; the substantive employment relationship problem between these parties will require investigation and determination in due course.

[2] On 13 January 2026, the advocate for LDE applied for orders of non-publication in respect of the identities of LDE and NIY.

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<sup>1</sup> *LDE v NIY* [2026] NZERA 4.

## **Analysis**

### *The parties' positions on non-publication*

[3] LDE's application for non-publication seeks interim orders pending resolution of the substantive employment relationship problem. The application is advanced on the basis that the First Determination is premised on untested evidence, and this could lead to inaccurate fact reporting which in turn would likely cause prejudice for one or both parties.

[4] NIY opposes the application for non-publication orders stating that non-publication is now moot as reporting of this matter including with the parties' names and identities has already occurred. And it says, in any event, in making an application to the Authority LDE accepted that matters would be put in the public domain, there is no evidence of specific adverse consequences that could occur for LDE if her name and identity is published, concerns over misreporting of facts are matters for the parties and the relevant media organisations and it goes against the public interest to order interim-non-publication.

### *My analysis*

[5] Notwithstanding that the First Determination was issued without non-publication orders I have the power to order non-publication.<sup>2</sup>

[6] The grounds for non-publication will need to be established. In this case the principles as set out in *MW v Spiga Limited* will need to be applied.<sup>3</sup> To fully consider these principles and the factors advanced I will require evidence to be provided, and submissions made. This will take some time and is appropriately dealt with as part of my investigation into the substantive employment relationship problem.

[7] Also, I accept that the evidence I have referenced in the First Determination has not been tested. The untested evidence is critical of both parties and if it is reported publicly this is likely to harm LDE, impact both parties' reputations and it could potentially create concerns for the future investigation of this employment relationship problem.

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<sup>2</sup> *JKL v Stirling Andersen Limited* [2022] NZEmpC 107.

<sup>3</sup> See *MW v Spiga Limited* [2024] NZEmpC 147.

## *Conclusion*

[8] In the interim, to not render LDE's application for non-publication orders moot, and to protect the parties before the substantive employment relationship problem is resolved, I will make interim orders for non-publication.

## **Orders**

[9] Pursuant to clause 10 of the Second Schedule of the Employment Relations Act 2000 I prohibit from publication the names and identities of the applicant and the respondent:

- a. The applicant will be referred to as LDE.
- b. The respondent will be referred to as NIY.

[10] These orders will not prevent the parties from sharing the names and identities of the parties if their preparation for the investigation of the substantive employment relationship problem requires this. In such cases anyone receiving information regarding the names and identities of the parties to this matter should be advised of the non-publication orders and advised of their obligation to abide by them.

[11] These orders will remain on force until any further order regarding non-publication is made by the Authority or the Employment Court.

[12] The First Determination will be reissued to the parties with anonymisations and redactions made to reflect the non-publication orders. The First Determination will also be republished on the Authority's database with these anonymisations and redactions.

Peter van Keulen  
Member of the Employment Relations Authority