



Employment Court of New Zealand

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La Famia no.2 Ltd v James [2013] NZEmpC 119 (4 July 2013)

Last Updated: 22 July 2013

IN THE EMPLOYMENT COURT CHRISTCHURCH

[\[2013\] NZEmpC 119](#)

CRC 6/13

IN THE MATTER OF a challenge to a determination of the

Employment Relations Authority

BETWEEN LA FAMIA NO 2 LTD Plaintiff

AND NATASHA JAMES Defendant

Judgment: 4 July 2013

JUDGMENT OF CHIEF JUDGE G L COLGAN

[1] This proceeding (a challenge to a determination^[1] of the Employment Relations Authority) was filed with the Court on 4 February 2013. The plaintiff's statement of claim did not meet the minimum requirements for such a document under reg 11 of the [Employment Court Regulations 2000](#).

[2] By a minute issued on 19 February 2013 the Court allowed the plaintiff the period of 14 days within which to file and serve an amended statement of claim that met the requirements of reg 11. In the meantime, the defendant was not required to file a statement of defence. The plaintiff was recommended to take professional advice about its pleadings.

[3] There was no compliance by the plaintiff with this direction.

[4] In April 2013 the Registrar of the Court made inquiries of the plaintiff which indicated that it had been placed in liquidation on 20 February 2013. A further minute was issued by the Court on 10 April 2013 requiring the Registrar to ascertain

the identity of the liquidator of the plaintiff and to send copies of the Court's minutes

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of 19 February and 10 April 2013 to the liquidator. The minute of 10 April 2013 concluded: "If the liquidator does not take any step to progress the challenge within seven days of that date, the challenge will be dismissed without more".

[5] On 20 June 2013 the Registrar established contact with the liquidator of the plaintiff and confirmed that the minute had been received.

[6] No further step has been taken by the liquidator and, in these circumstances, the plaintiff's challenge to the determination of the Employment Relations Authority is dismissed.

[7] Although it is difficult to imagine that much, if any, work has had to be undertaken by the defendant in respect of the challenge, if a claim for costs is to be made and can be sustained given the liquidation, any such claim by the defendant should be filed and served on the liquidator (whose identity can be ascertained from the Registrar) within 28 days of the date of this judgment.

Judgment signed at 9 am on Thursday 4 July 2013

[\[1\]](#) [2013] NZERA Auckland 1.

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