

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Jayne Marie Marchant (Applicant)
AND Eagle Motorcycles (NZ) Limited (Respondent)
REPRESENTATIVES Jayne Marchant, applicant
Dennis Marchant, for the respondent
MEMBER OF AUTHORITY Philip Cheyne
DATE OF DETERMINATION 1 April 2005

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] In her statement of problem, Jayne Marchant seeks recovery of a substantial sum in arrears of wages said to be owed to her by her former employer. She identified the employer as Dennis Marchant, her brother.

[2] Later, with the agreement of Jayne Marchant and Dennis Marchant, I substituted a company, Eagle Motorcycles (NZ) Limited, for Mr Marchant as the correct respondent as Ms Marchant's employer was the company and not her brother personally.

Mediation

[3] There followed extensive efforts by the mediation service to achieve a resolution of this problem. It is not necessary to outline the reasons, but it was certainly in the best interests of those involved in the problem for the matter to have been resolved without a public investigation by the Authority.

[4] Unfortunately, resolution proved elusive and Ms Marchant recently confirmed that she wanted to take the matter further.

Disposition

[5] The company has not traded for some considerable time and apparently has no assets. It has now been struck off the register of companies. The result of that action by the registrar of companies is that the legal entity which formerly employed Ms Marchant no longer exists and, as matters presently lie, it cannot be a party to legal proceedings.

[6] I am satisfied that Ms Marchant has no right of action in the Employment Relations Authority against any other legal entity in respect of the problem. As a result, I dismiss her claims.

Philip Cheyne
Member of Employment Relations Authority