

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2017] NZERA Auckland 306
3003606

BETWEEN Peter Russell Nisbett
Applicant

AND Saturn 6 Limited
Respondent

Member of Authority: Jenni-Maree Trotman

Representatives: No appearance, for Applicant
No appearance, for Respondent

Investigation Meeting: 15 August 2017

Determination: 03 October 2017

DETERMINATION OF THE EMPLOYMENT RELATIONS AUTHORITY

- A. The Authority orders the reopening of this investigation under Schedule 2, Clause 4 of the Employment Relations Act 2000.**
- B. Determination [2017] NZERA Auckland 241 is set-aside with the following replacement orders being made:**
- a) The Applicant's claim is dismissed.**

Employment Relationship Problem

[1] The Applicant, Peter Nisbett, claims he was unjustifiably dismissed by the Respondent on 19 January 2017. He further claims the Respondent breached its duties of good faith.

[2] An investigation meeting was set down for 15 August 2017. Neither party attended. A determination was thereafter issued in which I dismissed the matter and awarded costs against Mr Nisbett pursuant to Regulation 21 of the Employment Relations Authority Regulations 2000.

[3] Following the issue of my determination Mr Nisbett provided a reasonable explanation for his non-attendance at the investigation meeting. As a result I ordered the investigation be reopened¹ and sought further comment from Mr Nisbett. That has now been received and results in this determination which replaces my earlier determination.

Determination

[4] Mr Nisbett advises the Respondent has no assets. In addition, the Respondent was placed into liquidation on 8 September 2017.

[5] Section 248 (c)(i) of the Companies Act 2003 provides that, from the commencement of the liquidation of a company, unless the liquidator agrees or the Court orders otherwise, a person must not commence or continue legal proceedings against the company.

[6] Mr Nisbett has not received the Liquidator's consent to continue with these proceedings. In any case, he advises he does not wish to continue with his claim.

[7] For these reasons Mr Nisbett's claim cannot proceed. It is therefore dismissed. There is no order as to costs against either party.

Jenni-Maree Trotman
Member of the Employment Relations Authority

¹ Schedule 2, Clause 4 of the Employment Relations Act 2000