

**Attention is drawn to the order prohibiting publication of certain information in this determination.**

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKAURAU ROHE**

[2020] NZERA 137  
3064173

BETWEEN CRAIG OWEN  
Applicant

AND ROCKET LAB LIMITED  
Respondent

Member of Authority: Rachel Larmer

Representatives: Sam Houliston, counsel for Applicant  
Elizabeth Coates and Charlotte Joy, counsel for  
Respondent

Investigation Meeting: On the papers

Date of Determination: 31 March 2020

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] The Authority is part way through an investigation into claims Mr Owen has made against his former employer Rocket Lab Limited (Rocket Lab).

[2] Rocket Lab has sought non-publication orders regarding the company named in paragraph 30 of Peter Beck's witness statement and regarding the commercially sensitive and

confidential information the parties have exchanged during the Authority's investigation process.

[3] Mr Owen did not challenge the non-publication order application.

[4] The Authority's discretion to grant non-publication orders is contained in clause 10 of the Second Schedule of the Employment Relations Act 2000 (the Act). Clause 10(1) of the Second Schedule of the Act states:

The Authority may, in respect of any matter, order that all or any part of any evidence given or pleadings filed or the name of any party or witness or other person not be published, and any such order may be subject to such conditions as the Authority thinks fit.

[5] This discretion must be exercised on a principled basis.

[6] The onus is on Rocket Lab to show that a non-publication order should be made.

[7] The Employment Court in *Crimson Consulting Limited v Berry* reviewed and summarised a recent Authority's order regarding non-publication in the employment jurisdiction<sup>1</sup>.

[8] The Court recognised that the general principle that justice should be administered openly was a strong one and that a party seeking to depart from that fundamental principle of open justice was required to provide evidence identifying specific adverse consequences that should result in a non-publication order being issued.

[9] The Employment Court recognised that every case would be very fact specific and that the employment institutions had to weigh and assess all of the competing factors carefully and in a principled manner.

[10] The employment institutions have recognised that the overall public interest regarding non-publication orders prior to the resolution of substantive claims may be different than the public interest considerations that exist after substantive claims have been determined.

[11] The Authority has received highly confidential and commercially sensitive information that contains proprietary information belonging to Rocket Lab in the course of

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<sup>1</sup> [2017] NZEmpC 94.

this investigation, specifically the documents identified in and attached to Ms Coates' email to the Authority dated 6 February 2020.

[12] By agreement of the parties, these documents were disclosed on a counsel to counsel basis. While Mr Owen is aware of the content of them he has not been provided with physical or electronic copies of them.

[13] There is no public interest in this material being made publicly available.

[14] Parties to Authority investigations must be confident that their sensitive and confidential proprietary information will not be placed into the public domain if claims are made against them.

[15] Rocket Lab has acted appropriately to preserve the confidentiality of such material and Mr Owen has fully co-operated with the approach Rocket Lab has adopted.

[16] It is clear to the Authority that this is an appropriate matter in which to issue a non-publication order.

[17] The Authority orders that:

- (a) The name of the company that is referred to in paragraph 30 of Mr Beck's witness statement is not to be published in connection with these proceedings; and
- (b) None of the documents identified in points 1-3 of Ms Coates' email to the Authority dated 6 February 2020 may be published in connection with these proceedings.

[18] The parties are granted leave to apply to the Authority to extend the ambit of this non-publication order if, during the continuation of the Authority's investigation, further commercially sensitive, proprietary and/or confidential information requires the protection of a non-publication order.

**Costs**

[19] Costs are reserved pending the outcome of the substantive matter.

**Rachel Larmer**  
**Member of the Employment Relations Authority**