

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2011] NZERA Wellington 77
5332049

BETWEEN DIETER RAVNJAK
 Applicant

AND WELLINGTON
 INTERNATIONAL AIRPORT
 LIMITED
 Respondent

Member of Authority: G J Wood

Representatives: Paul McBride for the Applicant
 David Burton for the Respondent

Investigation Meeting: On the papers

Submissions Received: By 12 May 2011

Determination: 13 May 2011

DETERMINATION OF THE AUTHORITY

[1] Mr Ravnjak seeks to reopen (and quash) the investigation and determination by the Authority on 7 March 11 recorded as [2011] NZERA Wellington 36, as it was made in reliance upon illegally obtained evidence, irregularly provided to the Authority.

[2] Subsequent to the Authority's determination and the discovery of the fact that video evidence was in fact collected by a private investigator rather than an employee of the respondent (WIAL), as it had indicated previously to the Authority, the Employment Court found that such evidence was illegally obtained. It therefore followed, it was submitted, that a miscarriage of justice against the applicant has occurred. Although denying any wrongdoing, WIAL supports the application for reopening.

[3] On the basis of the parties' submissions and the finding of the Court that the video evidence relied on in good faith by the Authority was inadmissible and illegally obtained, it is clear that a miscarriage of justice has occurred. Therefore a reopening of Mr Ravnjak's claim for interim reinstatement is appropriate.

[4] I therefore order the reopening of the investigation into the employment relationship problem between Dieter Ravnjak and Wellington International Airport Limited, pursuant to clause 4 of Schedule 2 of the Act. The effect of this determination is thus that Mr Ravnjak is able to have his application for interim reinstatement investigated afresh, from square one, but without the evidence now known to be inadmissible.

[5] It has been agreed by the parties that costs are to lie where they fall and I so order.

G J Wood
Member of the Employment Relations Authority