



Employment Court of New Zealand

You are here: [NZLII](#) >> [Databases](#) >> [Employment Court of New Zealand](#) >> [2021](#) >> [\[2021\] NZEmpC 185](#)

[Database Search](#) | [Name Search](#) | [Recent Decisions](#) | [Noteup](#) | [LawCite](#) | [Download](#) | [Help](#)

S v N [2021] NZEmpC 185 (28 October 2021)

Last Updated: 2 November 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA ŌTAUTAHI

[\[2021\] NZEmpC 185](#)

EMPC 274/2021

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for leave to extend time to file a notice of opposition
BETWEEN	S Plaintiff
AND	N Defendant

Hearing: On the papers

Appearances: M O'Flaherty, counsel for
plaintiff G, advocate for
defendant

Judgment: 28 October 2021

INTERLOCUTORY JUDGMENT OF JUDGE K G SMITH

(Application for leave to extend time to file a notice of opposition)

[1] On 14 July 2021 the Employment Relations Authority issued a determination finding that N was employed by S and had been unjustifiably dismissed.¹

[2] The Authority ordered S to pay N lost wages of \$6,903 and compensation pursuant to [s 123\(1\)\(c\)\(i\)](#) of the [Employment Relations Act 2000](#) (the Act) of \$18,000. In addition, the Authority ordered S to reimburse N's lodgement fee of \$71.56.

¹ *N v Q Ltd* [\[2021\] NZERA 300](#) (Member Beck).

S v N [\[2021\] NZEmpC 185](#) [28 October 2021]

[3] S has challenged that determination seeking to overturn the finding that he employed N. S also applied for a stay of execution of the Authority's determination. That application was served on N but it was not responded to within time. To be able to oppose the application for a stay N needed to successfully apply for an extension of time.

[4] N applied for an extension of time. The ground relied on was that N had not been able to act within time because her advocate was unavailable having had surgery rendering him unfit for work. In anticipation of being successful, a notice of opposition was filed containing the grounds on which N intends to contest the application for a stay.

[5] Initially S opposed N's application before consenting to it. By consent, therefore, N's application is granted. The notice filed in anticipation of the application being granted will be treated as the notice of opposition.

[6] There is one other matter that needs to be addressed. The Authority ordered that pursuant to cl 10(1) of sch 2 to the Act the names of the parties and any information that might identify them was not to be published. The ambit of that order means it applies to the name of N's advocate. In the interim, the non-publication order is continued pursuant to cl 12 of sch

3 to the Act and, for convenience, the same identifiers have been used in this decision as in the Authority's determination. This non-publication order will be reconsidered at the substantive hearing.

[7] Costs are reserved.

K G Smith Judge

Judgment signed at 3 pm on 28 October 2021

NZLII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#)

URL: <http://www.nzlii.org/nz/cases/NZEmpC/2021/185.html>