



Employment Court of New Zealand

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Siam Cuisine Limited v Eder [2021] NZEmpC 24 (11 March 2021)

Last Updated: 16 March 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA ŌTAUTAHI

[\[2021\] NZEmpC 24](#)

EMPC 142/2020

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application to adjourn a hearing
BETWEEN	SIAM CUISINE LIMITED Plaintiff
AND	AMY EDER Defendant

Hearing: On the papers

Appearances: R Thompson, advocate for plaintiff
A Oberndorfer, advocate for defendant

Judgment: 11 March 2021

INTERLOCUTORY JUDGMENT OF JUDGE KATHRYN BECK

(Application to adjourn a hearing)

[1] This proceeding is set down to be heard over five days, beginning on Monday 3 May 2021.

[2] The plaintiff is seeking an adjournment on the grounds detailed in an affidavit of Mr Murray Macarthy, the director of the plaintiff, which I will detail further below. The application is supported by the defendant.

[3] In December of last year Mr Macarthy received news that his son, who resides in Australia, had been diagnosed with a serious medical condition. He travelled from New Zealand to Australia in January 2021 when the Australian Government was

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allowing travel between New Zealand and Australia. At the time he believed his time away would be of short to medium duration.

[4] Mr Macarthy's son's condition has not improved, and Mr Macarthy has remained in Australia to this date. He is now having difficulty obtaining a space in a managed isolation (MIQ) facility to return to New Zealand. He does not expect to be able to return until June or possibly July 2021, as MIQ spaces are booked up until June. This means that he is unable to attend the hearing in person and/or participate in the preparation for the hearing with his advocate, Mr Thompson. He submits that not being able to attend in person would be prejudicial to his case. He therefore seeks an adjournment of these proceedings.

[5] In all the circumstances, I accept that the plaintiff is faced with unusual and rare circumstances which have arisen beyond his control. The Defendant has not raised any issues of prejudice and is supportive of the application. I accept that an adjournment is appropriate.

[6] The application is granted. The fixture dates are vacated. The Registrar is requested to arrange the first alternative dates after July 2021 with the parties' representatives. In the event that there remain difficulties with Mr Macarthy being able to attend in person, consideration will need to be given to him attending via AVL.

Kathryn Beck Judge

Judgment signed at 9 am on 11 March 2021

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