



# Employment Court of New Zealand

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## Stevens v Hapag-Lloyd (NZ) Limited [2014] NZEmpC 125 (10 July 2014)

Last Updated: 17 July 2014

### IN THE EMPLOYMENT COURT AUCKLAND

#### [\[2014\] NZEmpC 125](#)

ARC 87/13

IN THE MATTER OF     a challenge to a determination  
                              of the  
                              Employment Relations  
                              Authority

AND IN THE MATTER   of an application for leave to  
                              have evidence taken by  
                              Registrar

BETWEEN               ANGELIQUE STEVENS Plaintiff

AND                     HAPAG-LLOYD (NZ) LIMITED  
                              Defendant

ARC 7/14

IN THE MATTER OF a challenge to a determination of the  
Employment Relations Authority

BETWEEN HAPAG-LLOYD (NZ) LIMITED Plaintiff

AND ANGELIQUE STEVENS Defendant

Hearing:               Following a telephone conference call held on 10 July  
                              2014  
                              (Heard at Auckland)

Appearances:       E Hartdegen, counsel for Ms Stevens  
                              S Worthy, counsel for Hapag-Lloyd (NZ) Limited

Judgment:           10 July 2014

### INTERLOCUTORY JUDGMENT (NO 2) OF JUDGE CHRISTINA INGLIS

[1] These proceedings are currently set down for hearing commencing on 6

August 2014. Counsel for Ms Stevens has filed an application for leave to have evidence taken by a Registrar of the District Court in advance of the hearing. The

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July 2014]

basis of the application was that a key witness for the plaintiff, Ms Pietersen, will be unavailable to attend the hearing. That is because

she resides in Papua New Guinea and her employer has declined to allow her leave. She is, however, going to be in New Zealand for a period this month.

[2] A telephone conference was convened this afternoon to progress the application. Counsel for Hapag-Lloyd (NZ) Limited (Hapag-Lloyd) filed a notice of opposition, together with a memorandum of counsel, in advance of the telephone conference. Hapag-Lloyd's concerns centred on the potential difficulties for the Court in determining any credibility issues that might arise, if Ms Pietersen's evidence was taken by a Registrar.

[3] Mr Worthy, counsel for the Hapag-Lloyd, raised the possibility of Ms Pietersen giving evidence from Papua New Guinea by way of video link during the course of the August hearing. Counsel for the plaintiff, Ms Hartdegen, advised that this option had previously been explored but had been discarded following inquiries, having regard to the likely technical difficulties associated with it.

[4] There was no dispute that Ms Pietersen's proposed evidence is important to Ms Steven's case. I accept that Ms Stevens would be prejudiced if her evidence could not be given. I also accept the validity of the concerns that Mr Worthy has identified, including the potential difficulties in relying on a transcript of evidence taken in a different forum to assess credibility.

[5] As counsel agreed, these concerns can satisfactorily be resolved by Ms Pietersen giving evidence while she is in Auckland between 14 and 21 July 2014 on pre-approved leave, before me. Leave is accordingly granted for Ms Pietersen to give evidence in advance of the scheduled hearing dates.

[6] Counsel estimate that no more than two hours will be required. The Registrar will liaise with counsel to confirm a suitable date and time. The hearing will otherwise proceed as scheduled, on 6 August 2014.

[7] The common bundle of documents has not yet been finalised. Counsel will discuss what documents each party wishes to put to Ms Pietersen and ensure that they are available for the hearing.

[8] At the request of the parties, costs on this application are reserved.

Christina Inglis

Judge

Judgment signed at 5 pm on 10 July 2014