

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

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

CA160/08  
5131243

BETWEEN                      THE APPLICANT  
Applicant

AND                              THE RESPONDENT  
Respondent

Member of Authority:      Philip Cheyne

Representatives:            Z, Advocate for applicant  
Geoff Davenport, Counsel for respondent

Investigation Meeting:     23 October 2008 at Blenheim

Determination:              23 October 2008

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**DETERMINATION OF THE AUTHORITY**

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[1] Without objection from either party I make an order prohibiting the publication of their identities in connection with these proceedings. They remain in an employment relationship and the publication of their identity at this time would likely undermine that relationship. The applicant was represented by his wife so I must also prohibit the publication of her name.

[2] The applicant was suspended from his employment some while ago pending the respondent's investigation into alleged trust and confidence issues. He seeks from the Authority orders revoking his suspension, declaring void the respondent's disciplinary investigation to date and prohibiting the respondent from continuing its investigation. The suspension is said to amount to an unjustified disadvantage personal grievance, to be unlawful and in breach of good faith.

[3] When first lodged with the Authority the matter was directed to mediation without objection. The parties did not manage to get to mediation and in light of further applications to the Authority, the passage of time and the nature and extent of the issues in dispute I directed that the Authority would investigate and determine matters.

[4] I have before me a substantial file of material partly being source documents in connection with the allegations and the investigation but mostly being communications between the parties related to the respondent's wish to progress the investigation and the applicant's objections to providing substantive responses to the allegations. The representatives have taken the opportunity to address the Authority about the proper disposition of this matter.

[5] The respondent some time ago set a deadline of 24 October 2008 for the applicant to attend a meeting or give a written response to the original allegations (as now modified) and further trust and confidence allegations that have arisen because of the applicant's conduct during the suspension. Having reflected on the submissions and the material before me I have reached a clear view about whether there should be any interference by the Authority in the disciplinary investigation proposed by the respondent. There is not sufficient time to fully explain the reasons for my conclusion before the respondent's deadline so I will simply announce the conclusion and give the reasons in due course.

[6] The Authority will not make any orders restricting or restraining the respondent from continuing with its disciplinary investigation, whether by injunction, declaration, compliance or otherwise. I am not deciding that the applicant does not have a personal grievance in connection with the suspension, nor am I determining that there has been a breach by him in connection with the allegations so as to justify a dismissal. However, this is a situation where the applicant's proper focus should be on answering the concerns raised by his employer. Obviously enough his answer can include all the concerns raised with the Authority.

[7] Costs are reserved.

Philip Cheyne  
Member of the Employment Relations Authority

