

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2012] NZERA Auckland 262  
5307295

BETWEEN

MAPU TOMO  
Applicant

AND

CHECKMATE PRECISION  
CUTTING TOOLS LIMITED  
Respondent

Member of Authority: Dzintra King

Representatives: Stan Austin, Advocate for Applicant  
Mark Beech, Counsel for Respondent

Investigation Meeting: On the papers

Determination: 31 July 2012

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**DETERMINATION OF THE AUTHORITY**

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[1] The respondent, Checkmate Precision Cutting Tools Limited (“Checkmate”) has filed an application for a stay of proceedings.

[2] The respondent has filed proceedings in the Employment Court challenging the Authority’s determination on the preliminary matter.

[3] Two matters remain to be heard in the Authority: costs on the preliminary hearing and the substantive hearing of Mr Mapu Tomo’s claim.

[4] The applicant has written to the respondent seeking costs. Enclosed with the letter is a document headed “Deed of Assignment of Award for Costs” which purports to give Mr Stan Austin, the applicant’s representative, a Power of Attorney to act in respect of the costs’ issue and to assign to Mr Austin the benefit of any costs award made.

[5] The effect of this is that any monies paid pursuant to a costs award will be made directly to Mr Austin.

[6] The respondent says that if it is required to pay a costs award to the applicant the benefit of a successful challenge by the respondent would be lost because it would have little, if any prospect of being able to recover monies paid to the applicant as the money will have been paid to the applicant's representative, who is not a party to these proceedings.

[7] The respondent says that as the outcome of the challenge on the preliminary issue may be determinative of the substantive issue of unjustified dismissal, it is in neither party's interest for there to be any steps taken in respect of the substantive issue until the challenge on the preliminary issue has been heard and determined in the Employment Court.

[8] The applicant does not oppose the application for stay.

[9] I accept the respondent's submissions regarding the stay application and grant the application for stay.

Dzintra King

Member of the Employment Relations Authority