

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

[2012] NZERA Christchurch 59  
5288285

BETWEEN                      BRUCE WALDMAN  
   Applicant  
  
AND                              UNIVERSITY OF  
   CANTERBURY  
   Respondent

Member of Authority:      Philip Cheyne  
  
Representatives:            Jeff Goldstein, counsel for applicant  
   Emma Warden, counsel for respondent  
  
Submissions Received:    19 March 2012 & 26 March 2012 from the applicant  
   22 March 2012 & 28 March 2012 from the respondent  
  
Determination:              4 April 2012

---

**DETERMINATION OF THE AUTHORITY**

---

**Employment Relationship Problem**

[1]      This problem concerns Mr Waldman's claim that the University of Canterbury breached a record of settlement entered into by the parties on 26 October 2006.

[2]      Mr Waldman lodged his statement of problem and supporting affidavits on 26 November 2009. Urgency was sought. There was a phone conference on 26 November 2009 and a further phone conference on 1 December 2009.

[3]      There were attempts, including mediation, to resolve the problem between the parties, apparently with some but not complete success. Urgency was no longer required.

**Delay**

[4] In early 2010 the Authority was advised that Mr Waldman would be overseas until August 2010 and that counsel would advise whether anything further was required from the Authority.

[5] On 1 July 2011 the Authority received a request via counsel that Mr Waldman wanted his case heard in December 2011 upon his return to New Zealand.

[6] In September 2011 arrangements were agreed for an investigation meeting on 13 and 14 February 2012 including a requirement for Mr Waldman to lodge an amended statement of problem by 22 September 2011 (later extended to 6 October 2011) and to lodge any statements of evidence and additional documents by 10 November 2011.

[7] An amended statement of problem was lodged on 10 October 2011 and an amended statement in reply was lodged on 28 October 2011 (time for the reply having been enlarged). Counsel for the respondent lodged a memorandum raising some jurisdictional points. Counsel for the applicant asked for the investigation meeting to be rescheduled to the week starting 16 July 2012. The adjournment was opposed.

[8] There was a further phone conference on 16 November 2011 during which arrangements were made for an investigation meeting on 19 and 20 July 2012 subject to Mr Waldman not applying for the proceedings to be removed to the Employment Court. A further date (26 March 2012) was set for Mr Waldman to provide statements of evidence, the earlier date having been abandoned in light of the change in date for the investigation meeting.

[9] During a further phone conference on 18 January 2012, and in the light of further amendments to the remedies sought in Mr Waldman's statement of claim, I declined to deal with counsel's jurisdictional issues on an interlocutory basis. Counsel for Mr Waldman confirmed that he was instructed not to seek the removal of the proceedings. Following this conference a notice of investigation meeting for 19 and 20 July 2012 was issued.

**Further adjournment application**

[10] Mr Waldman seeks an adjournment of the investigation meeting on the basis that he is now not able to come to New Zealand at that time. From an explanation given after the application it appears that Mr Waldman has recently been assigned to a role in organising a conference scheduled to take place in South Korea between 6 and 15 September 2012 which he says will demand most of his time in July and August 2012. There is also a complaint about the respondent's failure to fully and promptly disclose relevant material.

[11] The respondent objects to a further adjournment on the basis of lack of explanation, non-compliance and previous delay, prospective delay given difficulties with availability for the respondent's witnesses and actual and potential prejudice from further delay. The respondent also makes the point that delay makes it more difficult for the Authority and the parties.

[12] The respondent's points in opposition are well made. In particular it seems that Mr Waldman has accepted the responsibility for organisation of a conference after he knew of the dates set for the Authority's investigation meeting. He did so after the adjournment of earlier dates at his request but opposed by the respondent. By July 2012 it will be nearly three years since this application was lodged and six years since the terms of settlement were agreed. It is well past time that Mr Waldman's claims against the respondent were investigated and determined. Any further delay will add greater complexity and difficulty for all involved and additional cost for the parties.

[13] For the foregoing reasons I have decided to decline the application for an adjournment. The investigation meeting will proceed on 19 and 20 July 2012 as currently scheduled.

**Disclosure**

[14] If Mr Waldman seeks the disclosure of any further documents from the respondent he should provide the respondent (and the Authority) with a

comprehensive list of the material he says exists but has not been disclosed and explain each item's relevance.

[15] In general the Authority's practice is to ensure that relevant documents are exchanged between the parties and the Authority in a timely manner in advance of the investigation meeting. If there is a dispute about any particular document the matter can be dealt with by phone conference.

### **Costs**

[16] Costs are reserved.

Philip Cheyne  
Member of the Employment Relations Authority