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X v Z (Auckland) [2017] NZERA 208; [2017] NZERA Auckland 208 (27 July 2017)

Last Updated: 4 August 2017

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

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2017] NZERA Auckland 208
3014671

BETWEEN X

First Applicant

A N D Y

Second Applicant

A N D Z Respondent

Member of Authority: Rachel Larmer

Representatives: Susan Hornsby-Geluk, Counsel for Applicants

Respondent in person

Investigation Meeting: By telephone conference on 26 July 2017

Date of Determination: 27 July 2017

DETERMINATION OF THE EMPLOYMENT RELATIONS AUTHORITY

Employment relationship problem

[1] The parties have previously been involved in litigation before the Employment Relations Authority (the originating matter).

[2] The parties were directed to mediation on the originating matter by a different Authority Member. Mediation resulted in settlement of the originating matter by way of a Record of Settlement signed under [s.149](#) of the [Employment Relations Act 2000](#) (the Act).

[3] The Authority in the originating matter issued an interim non-publication order which was stated to remain in effect until further order of the Authority. No further order of the Authority has been made so the interim non-publication order relating to the originating matter remains in effect.

[4] The respondent party in the originating matter is now one of the applicant parties in respect of the current matter now before the Authority under AEA 3014671.

[5] The applicants in the current matter seek a compliance order regarding the [s.149](#) Record of Settlement which related to the originating matter, penalties for each alleged individual breach of the Record of Settlement and indemnity costs.

[6] The applicants also sought that non-publication orders be made prohibiting publication of the names of the parties and individuals who are non-parties but who have been referred to in the proceedings, the geographical location of the first applicant and any other details that would cause the identities of the parties to be publicly known.

[7] The second applicant has filed affidavit evidence setting out the reasons for the non-publication application. The respondent agrees that it is in the interest of justice for an interim non-publication order to be made on the terms sought by the applicants in respect of the current matter pending his decision to take advice regarding the effect publication may have on third parties who are minors.

[8] I am satisfied that the reasons set out in the affidavit evidence filed in support of the non-publication orders, in terms of the response of the respondent in this matter to the non-publication application, and for the reasons set out in Ms Hornsby-Geluk's memorandum dated 10 July 2017 that it is necessary, appropriate and in the interests of justice to issue a non-publication order on the terms sought.

[9] One of the main factors for doing so is to protect the legitimate interests and privacy of non-parties including the non-parties who are under age.

[10] By consent, pursuant to clause 10(1) of Schedule 2 of the Act the Authority issue an interim non-publication order prohibiting the publication of:

(a) The names of the parties in respect of this current matter;

(b) The names of the non-parties referred to in the evidence and pleadings in relation to the originating matter;

(c) The geographical location of the first applicant;

(d) Any other details that would cause the identities of the parties or the non-parties referred to in these proceeding to be publicly known.

[11] The parties have therefore been referred to in this determination by letters bearing no relationship to their actual names. Nor do the letters used in this determination reflect the letters previously used to identify the parties in connection with the originating matter.

[12] The parties have leave to apply to the Authority to discharge, vary or make final this interim non-publication order.

Rachel Larmer

Member of the Employment Relations Authority

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