



Employment Court of New Zealand

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Yu v Li [2012] NZEmpC 75 (3 May 2012)

Last Updated: 12 May 2012

IN THE EMPLOYMENT COURT WELLINGTON

[\[2012\] NZEmpC 75](#)

WRC 30/11

IN THE MATTER OF a challenge to a determination of the

Employment Relations Authority

AND IN THE MATTER OF an application for an extension of time

BETWEEN FUQIANG (JAMES) YU Plaintiff

AND XIN (BILL) LI AND SYMBOL SPREADING LTD

Defendant

Hearing: (on the papers) Judgment: 3 May 2012

INTERLOCUTORY JUDGMENT OF JUDGE A D FORD

[1] Both parties are self litigants. The proceeding relates to a non de novo challenge by the plaintiff to a determination^[1] of the Employment Relations Authority (the Authority) dated 23 September 2011. In an earlier determination^[2] the Authority had concluded that the plaintiff was an employee not a contractor and that he had established a disadvantage grievance on the grounds that he had not been paid for

two months. The Authority made an award in the plaintiff's favour for non-economic loss. With regard to the plaintiff's loss of wages claim, the Authority invited the parties to attempt to resolve the issue through mediation and set out a suggested formula for doing so. The parties did not agree and the Authority then proceeded to determine the quantum of the plaintiff's economic loss claim in the

determination under challenge.

YU V LI AND SYMBOL SPREADING LTD NZEmpC WN [\[2012\] NZEmpC 75](#) [3 May 2012]

[2] The matter had been set down for a telephone directions conference on 8 May 2012 to fix a hearing date.

[3] On 2 May 2012, the Registry received a request from Mr Lance Burgess, a director of Miller Dean Chartered Accountants Limited, requesting an adjournment of the telephone directions conference on the grounds that the defendant, Mr Li, is out of the country until the end of May 2012.

[4] Mr Yu has responded stating that he opposes the application for an adjournment because the "case has been dragging [on] too long". Mr Yu states that if the proposed date is unsuitable to Mr Li then he should appoint "his lawyer to represent him". The difficulty with that submission, of course, is that Mr Li does not have a lawyer. Like the plaintiff, he is conducting the litigation in person.

[5] The Court has a very broad discretion under [s 219\(1\)](#) of the [Employment Relations Act 2000](#) (the Act) to extend the time within which anything authorised under the Act is to be done. The principal criteria in each case must be the interests of justice. Although the further delay is unfortunate, the Court is satisfied that the application for an extension of time should be

granted in this case.

[6] The Acting Registrar is directed to consult with Mr Burgess and Mr Yu with a view to fixing a further date for a telephone directions conference as soon as practicable following Mr Li's return from overseas.

[7] Costs are reserved.

A D Ford

Judge

Judgment signed at 4.30 pm on 3 May 2012

[\[1\]](#) [2011] NZERA Wellington 150.

[\[2\]](#) [2011] NZERA Wellington 61.

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