

**IN THE EMPLOYMENT COURT
CHRISTCHURCH**

**[2015] NZEmpC 27
EMPC 11/2015**

IN THE MATTER OF an application for a stay of execution

BETWEEN CROISILLES OYSTERS LIMITED
 Applicant

AND KATRINA KERR
 Respondent

Hearing: (on the papers filed 2 and 10 March 2015)

Counsel: A Scott-Howman, counsel for the applicant
 L Acland, counsel for the respondent

Judgment: 11 March 2015

INTERLOCUTORY JUDGMENT OF JUDGE B A CORKILL

[1] The plaintiff has brought a non de novo challenge to a determination of the Employment Relations Authority (the Authority) dated 24 December 2014.¹

[2] The challenge relates to that part of the determination where the Authority concluded that the plaintiff could not rely upon s 29 of the Holidays Act 2003, which defines the term “closedown period” as a period when an employer customarily closes down the employer’s operations and requires the employees to take all or some of their annual holiday. The Authority held the applicant could not declare a “closedown period” in the Christmas/New Year period of 2013/2014, and ordered it to pay the respondent’s wages for that period.

[3] The applicant now seeks an order of stay of that order.

¹ *Kerr v Croisilles Oysters Ltd* [2014] NZERA Christchurch 216.

[4] The respondent's counsel has filed a memorandum confirming that his client consents to the stay application pending resolution of the challenge.

[5] By consent I make an order staying the order of the Authority which requires the applicant to pay the respondent wages in respect of the "closedown period", until further order of the Court.

B A Corkill
Judge

Judgment signed at 4.00 pm on 11 March 2015