

**IN THE EMPLOYMENT COURT
WELLINGTON**

**[2015] NZEmpC 33
WRC 33/12**

IN THE MATTER OF a challenge to a determination of the
 Employment Relations Authority

BETWEEN ROBERT RIMENE
 Plaintiff

AND PETER JOHN DOHERTY
 First Defendant

AND NATUSCH GROUP LIMITED
 Second Defendant

Hearing: 10 March 2015
 (heard at Masterton)

Appearances: A Parker and S Norling, counsel for the plaintiff
 No appearance for the defendant

Judgment: 20 March 2015

JUDGMENT OF JUDGE A D FORD

[1] The hearing of this long-running litigation commenced on 17 and 18 July 2013. It was then adjourned at the request of the defendant to enable time for Mr Doherty to consider and respond to the production of certain potentially significant documentation. Mr Doherty was then, and may still be, a solicitor practising in New South Wales, Australia. He was acting for the defendants.

[2] When the hearing was set to resume on 24 March 2014, the Court was advised that Mr Doherty had been declared bankrupt. The matter was adjourned.

[3] Mr Parker, counsel for Mr Rimene sought to have judgment entered in default against the defendant but in a judgment dated 12 August 2014, I declined that application.¹

[4] Mr Parker then made application for a further fixture to enable the plaintiff's case to proceed on a formal proof basis. That application was granted and at the hearing on 10 March 2015, Mr Rimene gave evidence on oath establishing his claim to the satisfaction of the Court.

[5] Notice of the fixture had been served on Mr Doherty and the trustee of his bankrupt estate in Australia. Inquiries made by the Registrar established that the Official Assignee in New Zealand had no interest in the proceeding.

[6] Judgment is entered against the defendant and the following orders are made:

- a) It is declared that at all relevant times the plaintiff was employed by Peter John Doherty.
- b) It was a condition of the plaintiff's employment, recognised in his salary, that as from February 2007 he would have free rental accommodation at 23 Roberts Road, Masterton.
- c) The plaintiff's employment ceased in March 2010.
- d) The plaintiff is awarded unpaid wages against Peter John Doherty in the sum of \$28,467.24
- e) The plaintiff is awarded unpaid holiday pay against Peter John Doherty in the sum of \$9,140.27

¹ *Rimene v Doherty* [2014] NZEmpC 146.

- f) Costs (and disbursements) are awarded to the plaintiff on a 2B basis in terms of the High Court Rules to be fixed by the Registrar in accordance with the Schedule of costs and disbursements provided by counsel.

A D Ford
Judge

Judgment signed at 3.20 pm on 20 March 2015