

**IN THE EMPLOYMENT COURT  
AUCKLAND**

**[2015] NZEmpC 69  
ARC 61/14**

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

AND IN THE MATTER      of an application for stay of proceedings

BETWEEN                      YASODHARA DA SILVEIRA SCARBOROUGH  
Plaintiff

AND                              MICRON SECURITY PRODUCTS LIMITED  
Defendant

Hearing:                      On papers filed on 22 April and 1, 4, 6, 12 and 14 May 2015

Appearances:              Plaintiff in person  
D France and S Worthy, counsel for defendant

Judgment:                  18 May 2015

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**INTERLOCUTORY JUDGMENT OF JUDGE CHRISTINA INGLIS**

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[1]     The plaintiff applies for a stay of proceedings. The application arises against the backdrop of the plaintiff's unsuccessful challenge<sup>1</sup> to a determination of the Employment Relations Authority<sup>2</sup> and the plaintiff's subsequent application for a rehearing, which was filed concurrently with the application for a stay.

[2]     The defendant opposes any stay. The parties were given an opportunity to indicate whether they had any objection to the application being dealt with on the papers and neither has done so. I proceed on the basis of the documentation before the Court.

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<sup>1</sup>     *Scarborough v Micron Security Products Ltd* [2015] NZEmpC 39.

<sup>2</sup>     *Scarborough v Micron Security Products Ltd* [2014] NZERA Auckland 231.

[3] In determining an application for stay the Court is required to balance the competing rights of each party. The overriding consideration is the interests of justice.<sup>3</sup>

[4] The first point is that no orders were made against the plaintiff in the Court's substantive judgment and the only order that may result, namely as to costs, has yet to be determined. Further, there is nothing before the Court to suggest that the plaintiff would be unable to proceed with her application for rehearing, or that it would otherwise be rendered nugatory, by the lack of a stay. Nor is there anything to suggest that her position would be prejudiced in any way at this stage.

[5] The defendant succeeded in defending the plaintiff's challenge. It has an interest in finality and a right to enjoy the fruits of its success.

[6] I am not satisfied that it is appropriate for a stay to be granted and I decline to do so.

[7] The defendant is entitled to costs on the application, the quantum of which is reserved.

[8] It is desirable that the plaintiff's application for a rehearing be dealt with as soon as possible. A telephone conference should be convened with an available Judge at the earliest opportunity to timetable the application to a hearing.

Christina Inglis  
Judge

Judgment signed at 9 am on Monday 18 May 2015

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<sup>3</sup> See, for instance, *Vulcan Steel v Walker* [2015] NZEmpC 15 at [15]-[16]; *Assured Financial Peace Ltd v Pais* [2010] NZEmpC 50 at [3]-[6].