IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKAURAU

IN THE MATTER OF	an application for a declaration under s 6(5) of the Employment Relations Act 2000
BETWEEN	A LABOUR INSPECTOR OF THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT Plaintiff
AND	AIRWAYS CORPORATION OF NEW ZEALAND LIMITED First Defendant
AND	AIRWAYS INTERNATIONAL LIMITED Second Defendant

Hearing:	On the papers
Appearances:	G La Hood, counsel for plaintiff G Davenport, counsel for defendants
Judgment:	25 September 2023

CONSENT JUDGMENT OF JUDGE B A CORKILL

[1]   In the statement of claim filed by the plaintiff in this case, it sought declarations under s 6(5) of the Employment Relations Act 2000 (the Act) in respect of three individuals, one of whom was Stuart Balchin. It was alleged he was an employee of either or both of the defendants from January 2006 to June 2007. The proceeding was filed on 21 April 2023.

[2]   In their statement of defence, the defendants raised a jurisdiction issue, asserting the claim was outside the six-year limitation period described in s 142 of the Act.

[3]   A preliminary hearing was set down to resolve this issue.

[4]   It is now common ground between the parties that the claim concerning Mr Balchin is time barred.

[5]   Accordingly, the parties request that the following be recorded in a consent judgment:

(a)   There was no jurisdiction for the plaintiff to file the application for declarations under s 6(5) of the Act in respect of Mr Balchin, given the six-year limitation period provided for in s 142 of the Act.

(b)   The causes of action in relation to Mr Balchin cannot proceed and will be withdrawn by the plaintiff.

(c)   The parties have agreed that the sum of $5,497 will be paid by the plaintiff to the defendants as a contribution to costs within 14 days of this judgment being issued.

[6]   The fixture in respect of the preliminary issue is vacated.

B A Corkill
Judge

Judgment signed at 10 am on 25 September 2023