

Determination Number: WA 181/05

File Number: WEA 143/05

ATTENTION IS DRAWN TO THE
ORDER PROHIBITING PUBLICATION
OF CERTAIN INFORMATION REFERRED
TO IN THIS DETERMINATION

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN	Trevor Prescott (applicant)
AND	Attorney-General in respect of the Chief Executive of the Ministry of Fisheries (respondent)
REPRESENTATIVES	Steven Zindel for the applicant Aaron Martin for the respondent
MEMBER OF THE AUTHORITY	Denis Asher
INVESTIGATION	Wellington, 22 & 23 November 2005
DATE OF DETERMINATION	23 November 2005

DETERMINATION OF AUTHORITY

Employment Relationship Problem

1. Mr Trevor Prescott asks the Authority to determine whether the Ministry's actions toward him were unjustifiable and affected his employment to his disadvantage and whether he was unjustifiably dismissed or unjustifiably constructively dismissed – statement of problem received on 21 April 2005. He originally sought as remedies reinstatement, lost wages from 19 September 2003 and compensation for

humiliation, etc of \$20,000 for the alleged unjustified actions and \$10,000 for the alleged unjustified termination, and costs.

2. In an email dated 19 November, the applicant's counsel – Mr Steven Zindel – confirmed that his client was not seeking reinstatement, and his lost wages claim ran from 19 December 2003 as a result of medical retirement pay of 65 working days from 19 September 2003.
3. The Ministry denies Mr Prescott's allegations and says none of its actions have disadvantaged the applicant. Amongst other things it says Mr Prescott, except for some limited exceptions, failed to raise personal grievances in relation to the matters set out in his application within the stipulated 90-day period and it does not consent to them being raised outside that period – statement in reply (SIR) received on 6 May. Several allegations in the statement of problem breach Parliamentary privilege, either directly or indirectly. It is not prepared to meet any of the remedies sought by Mr Prescott.
4. The parties underwent mediation but their employment relationship problem remained. The parties subsequently agreed to a two-day investigation commencing on Tuesday 22 November.

Settlement Reached

5. During today's investigation the parties arrived at a settlement that they asked the Authority to record by way of a consent determination. I agreed to that request. The Authority has the original settlement on its file. The settlement is confidential. The parties also asked that the detail of the settlement be prohibited from publication. I agreed to that request also: clause 10 (2) of Schedule 2 of the Act applied.
6. The parties are to be commended on settling this matter on their own terms.

Denis Asher

Member of Employment Relations Authority