

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON OFFICE**

**BETWEEN** Dina Benjamin (Applicant)

**AND** Maurice and Carolyn Bennett trading as New World Island Bay  
(Respondent)

**REPRESENTATIVES** Graeme Ogilvie for the Applicant  
Joe Richardson for the Respondent

**MEMBER OF AUTHORITY** P R Stapp

**ON THE PAPERS** Statement of Problem lodged 14 February 2006  
Statement in Reply for M R and C M Bennett Ltd lodged 27 March  
2006

**DATE OF DETERMINATION** 31 October 2006

**DETERMINATION OF THE AUTHORITY**

**Employment relationship problem**

[1] This application for unjustified dismissal, harassment, unfairness and remedies, is being dealt with on the papers because there is no address for service for the Applicant. The matter has been scheduled a date for an investigation meeting to take place. However, Mr Ogilvie has not been able to get instructions from Ms Benjamin. He cannot contact her. He has informed the Authority he cannot continue to act for her and the Authority would have to contact her direct.

[2] Ms Benjamin lodged her application with a post office box number, which has since been closed. She included a telephone number and has not been able to be reached at that number. There are no other details available of the Applicant's last known address to properly serve a notice of investigation meeting.

[3] In reply the Respondent was referred to M R and C M Bennett Ltd that raises an issue about who the employer was at the time.

[4] Mr Richardson has requested the matter be struck out.

**Decision of the Authority**

[5] Upon making her application the applicant had a responsibility to provide an address for service (Regulation 6 and Form 1 of the Employment Relations Authority Regulations). She also had the responsibility to ensure her representative was able to contact her in regard to these

proceedings. Since Mr Ogilvie is no longer able to act for her, Ms Benjamin had a responsibility to keep in touch with the Authority and at the very least enable the Authority to contact her. She has not met any of these requirements.

[6] The Respondent is entitled to have this matter brought to a speedy conclusion. Since the Applicant cannot be served with a notice of investigation meeting date I have decided to close the matter. There will be no investigation. The Respondent therefore can treat the matter as being dismissed because of the inability to serve the Applicant with the notice of an investigation meeting.

[7] If the Applicant wants to proceed she will have to lodge a further application or apply to reopen the application having regard to citing the correct employer, and before doing so, satisfy the Authority that attempts have been made to try and resolve the matter through mediation provided by the Department of Labour.

**P R Stapp**  
**Member of the Authority**