

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2015] NZERA Auckland 234
5555141

BETWEEN	MANUFACTURING AND CONSTRUCTION WORKERS UNION INC Applicant
A N D	CARTER HOLT HARVEY LIMITED First Respondent
AND	CARTER HOLT HARVEY PULP & PAPER LIMITED Second Respondent
AND	IAN WHYTE Third Respondent

Member of Authority: Anna Fitzgibbon

Representatives: Lou Yukich, Advocate for the Applicant
David France, Counsel for the Respondents

Investigation Meeting: On the papers

Date of Determination: 06 August 2015

**DETERMINATION OF THE AUTHORITY
ON A PRELIMINARY MATTER**

- A. The proceedings filed by the applicant do not comply with the provisions of the Employment Relations Act 2000 and the Employment Relations Authority Regulations 2000.**
- B. Accordingly, the proceedings are struck out.**
- C. Costs are reserved.**

Employment Relationship Problem

File 5555141- Manufacturing & Construction Workers Union Inc v Carter Holt Harvey Limited, Carter Holt Harvey Pulp & Paper Limited and Ian Whyte (6 May 2015)

[1] On 6 May 2015, Mr Yukich filed proceedings in the Authority seeking a compliance order against the respondents. This statement of problem was rejected by the Authority as it did not comply with the requirements of the Employment Relations Authority Regulations 2000 (the Regulations).

File 5555141- Peter Mathis & Manufacturing & Construction Workers Union Inc v Carter Holt Harvey Pulp & Paper Limited (26 May 2015)

[2] On 26 May 2015, Mr Yukich filed new proceedings filed under the same matter number 5555141 but with new parties, namely Mr Peter Mathis and Manufacturing & Construction Workers Union Inc, first and second applicants and Carter Holt Pulp & Paper Limited, respondent. There was no application by Mr Yukich for parties to be amended, he simply filed a new proceeding with new parties but with the same file number.

[3] This statement of problem citing Mr Mathis and the Union as applicants appears to be an attempt to amend a statement of problem filed in the Authority by Mr Yukich in respect of the same parties under File 5556203. The parties have been directed to mediation in that matter.

File 5555141- McPherson v Carter Holt Harvey Limited, Carter Holt Pulp & Paper Limited & Ian Whyte (Application on 3 August 2015)

[4] On 03 August 2015, following the Authority's determination to strike out the Union in *McPherson & Anor v Carter Holt Harvey Limited & Anor*¹, Mr Yukich filed a third proceeding in the Authority under file number 5555141. This was entitled an "*Amended Statement of Problem seeking Order*". The parties in this proceeding are Mr McPherson as applicant, Carter Holt Harvey Limited, first respondent, Carter Holt Pulp & Paper Limited, second respondent and Ian Whyte, third respondent.

[5] The issue in this third matter in respect of which Mr McPherson seeks a compliance order pursuant to s.137 of the Employment Relations Act 2000 (the Act)

¹ [2015] NZERA Auckland 227

relates to matters involving Mr McPherson's wage and time records including holiday records.

[6] In other words, other than the addition of Mr Whyte as a third respondent, the parties in the application of 3 August 2015, are the same as the parties in file, 5563601 and appear to be concerned with similar matters. This is extremely confusing and unhelpful.

Order

File 5555141

[7] In my view, the proceedings filed in the Authority under file number 5555141 by the applicant, do not comply with the provisions of the Act nor do they comply with the requirements of the Regulations.

[8] The proceedings do not ensure that the Authority and the respondents are fully, fairly and clearly informed of the issues. The proceedings are confusing. Mr Yukich for the applicant has attempted to file multiple claims, with differing parties under the same file number 5555141. This is not acceptable.

[9] Accordingly, the proceedings filed in the Authority under file number 5555141 are struck out pursuant to s.160(1)(f) of the Act.

Costs

[10] Costs are reserved.

Anna Fitzgibbon
Member of the Employment Relations Authority