

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

[2021] NZERA 76
3121912

BETWEEN METROPOLITAN
GLASS &
GLAZING
LIMITED
Applicant

AND JOSHUA MONK
First Respondent

AND ALAN EAST
Second
Respondent

AND SPECIALITY
GLASS LIMITED
Third Respondent

AND NORTHLAND
SPECIALITY
GLASS
COMPANY
LIMITED
Fourth Respondent

Member of Authority: Eleanor Robinson

Representatives: Jim Roberts and Eloise Callister-Baker,
counsel for the Applicant
David Grindle, counsel for the First
Respondent
Peter Magee, counsel for the Second,
Third and Fourth Respondents

Determination: 26 February 2021

CONSENT DETERMINATION OF THE AUTHORITY

[1] During October 2020 the Applicant, Metropolitan Glass and Glazing Company Limited (MetroGlass) , filed claims in the Authority seeking *inter alia* interim injunctive orders.

[2] The Authority issued a preliminary determination dated 13 November 2020 ([2020] NZERA 469) in which interim orders were made.

[3] The parties were subsequently contacted by the Authority in respect of attending a case management conference to address timetabling for the substantive matter.

[4] The parties have since engaged in settlement discussions resulting in an agreement between them. They have requested the Authority to make consent orders in respect of their agreement, as set out below.

[5] By consent and by this determination, the terms set out below are made the order of the Authority to resolve this matter and are enforceable as an order of the Authority.

[6] These terms are full, final and binding in respect of all employment related matters between the parties and all outstanding matters before the Authority are discontinued.

By order of the Authority:

- a) The First Respondent is ordered pursuant to s 137 of the Employment Relations Act (the Act) to comply with the restraint of trade in clause 19 of his Employment Agreement with MetroGlass and to comply with the undertakings given by him on 20 October 2020;
- b) The First Respondent is restrained from breaching the restraint of trade in clause 19 of his Employment Agreement with MetroGlass, and from commencing employment with the Third Respondent or any other competitor in any capacity prior to 23 April 2021;
- c) An injunction is issued restraining the Second, Third and Fourth Respondents from aiding, abetting or inciting the First Respondent to breach the restraint of trade in clause 19 of his Employment Agreement with MetroGlass, and the First Respondent is restrained from commencing employment with the Third Respondent in any capacity prior to 23 April 2021;
- d) An injunction is issued restraining the First Respondent from breaching the confidentially provisions in his Employment Agreement with MetroGlass;
- e) The First Respondent is ordered pursuant to s 137 of the Employment Relations Act (the Act) to comply with the confidentially provisions in his Employment Agreement with MetroGlass;
- f) The First Respondent is ordered pursuant to s 137 of the Employment Relations Act (the Act) to comply with his implied obligations of trust, confidence and fidelity to MetroGlass;

[7] The parties are in agreement that each party will bear its own costs.

Eleanor Robinson
Member of the Employment Relations Authority