

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2022] NZERA 213
3169980

BETWEEN	DRAKE NEW ZEALAND LIMITED Applicant
AND	MARK COTGRAVE First Respondent
	RECRUITMENT NOW LTD Second Respondent

Member of Authority: Peter van Keulen

Representatives: Penny Swarbrick, counsel for the Applicant
John Shingleton, counsel for the Respondents

Date of Determination: 25 May 2022

CONSENT DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] During the course of the Authority's management of this matter, the parties were able to resolve their employment relationship problem. The parties have requested the Authority issue a consent determination making orders in respect of Drake New Zealand Limited's substantive claims against Mark Cotgrave and Recruitment Now Ltd.

The orders

[2] Mark Cotgrave acknowledges that by establishing Recruitment Now Ltd and operating in the Christchurch area in the recruitment industry in the period since his employment with

Drake New Zealand Ltd terminated in February 2022, he wilfully breached and continued to breach his employment agreement with Drake New Zealand Ltd.

[3] Mr Cotgrave and Recruitment Now Ltd will jointly and severally be liable to pay Drake New Zealand Ltd the sum of \$20,000.00 without deduction in satisfaction of the claims made against them in respect of the breach and shall make payment of this sum in full within 7 days of the date of this determination.

[4] On receipt of the \$20,000.00 within the requisite timeframe, the following will occur:

- a. Drake New Zealand Ltd will withdraw the claim in the Authority (claim 3169880) and costs shall lie where they fall.
- b. Drake New Zealand Ltd will waive the provisions of clause 17.1 of the employment agreement between Mr Cotgrave and Drake New Zealand Ltd, releasing Mr Cotgrave from the non-compete restraint contained therein.

[5] If Mr Cotgrave and Recruitment Now Ltd fail to pay the \$20,000.00 within the requisite timeframe the Authority's investigation will continue.

[6] There is no order for costs.

Peter van Keulen
Member of the Employment Relations Authority