

Attention is drawn to the order prohibiting publication of certain information in this determination.

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2022] NZERA 475
3131296

BETWEEN

PEX
Applicant

AND

LYTTELTON PORT
COMPANY LIMITED
Respondent

Member of Authority: Peter van Keulen

Representatives: Ashleigh Fechney, advocate for the Applicant
Andrew Shaw and Alex Beal, counsel for the Respondent

Investigation Meeting: On the papers

Submissions Received: 9 September 2022 from the Applicant
16 September 2022 from the Respondent

Date of Determination: 20 September 2022

SECOND DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] In a determination dated 1 August 2022 I made orders for non-publication of PEX's name and identity on an interim basis.¹

[2] PEX has now applied for those non-publication orders to be made permanent, advancing the same reasons as those that were made in support of the interim orders.

¹ *PEX V Lyttelton Port Company Limited* [2022] NZERA 353.

[3] Lyttelton Port Company Limited does not oppose the application.

Non-publication orders

[4] PEX sought non-publication orders on an interim basis because of particular circumstances relating to him that arose after the Investigation Meeting, which meant that publication of his name and identity might have an adverse impact on him.

[5] I was satisfied that those circumstances meant there was potential for publication of PEX's name and his identity to have an adverse effect on his health. And I was satisfied that the risk of the adverse effect occurring was sufficiently great and then that the adverse effect would be sufficiently harmful that the principle of open justice was displaced. Based on this I concluded that it was appropriate that I prohibit from publication PEX's name and any information that may identify him, albeit on an interim basis at that time.

[6] Since those orders were made PEX's circumstances relating to his health have changed but the changes – which need not be detailed here in order to protect PEX – still mean there is a significant a risk that publication of PEX's name and identity could have an adverse impact on his health. It appears unlikely that this will change in the future.

[7] In these circumstances I am satisfied that it is appropriate for me to make non-publication orders in respect of PEX's name and identity on a permanent basis.

[8] Pursuant to clause 10 of the Second Schedule of the Employment Relations Act 2000 I prohibit from publication the name and identity of the applicant; the applicant will be referred to as PEX.

Costs

[9] There is no order for costs in relation to the orders for non-publication.

Peter van Keulen
Member of the Employment Relations Authority