

Attention is drawn to the order in paragraph [8] prohibiting publication of certain information in this matter

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2023] NZERA 530
3225239

BETWEEN	METROPOLITAN GLASS & GLAZING LIMITED Applicant
AND	DAVID LAMBOURNE First Respondent
AND	FMI BUILDING INNOVATION LIMITED Second Respondent

Member of Authority: Alastair Dumbleton

Representatives: Jim Roberts and Sam Houliston, counsel for the
Applicant
Grace Moore, counsel for the First Respondent
Maria Dew KC, counsel for the Second Respondent

Date: 15 September 2023

DETERMINATION OF THE AUTHORITY

[1] On 1 May 2023 the Authority made an order prohibiting publication of evidence or information provided by the applicant to the Authority and to counsel for the first and second respondents.

[2] The order, made under clause 10 of Schedule 2 of the Employment Relations Act 2000, was expressed to remain in effect until further order.

[3] The non-publication order was expressed to apply to 15 pages attached to the Memorandum of the Applicant Regarding Confidential Information, dated 28 April 2023 and signed by counsel Mr Roberts. The attached pages were relevant to the question of the seniority of the first respondent Mr Lambourne within the applicant company and his possession of confidential information about his employer the applicant.

[4] It was provided to the respondents on a 'counsel only to see' basis for the purposes of investigating and determining the employment relationship problem before the Authority.

[5] On 9 May 2023 the Authority varied its order to allow Mr Lambourne access to the confidential information, within limitations as detailed. The variation did not permit access to the second respondent FMI Building Innovation Ltd, only counsel for that party.

[6] The application before the Authority was discontinued by Notice dated 8 June 2023 without further determination. The question of costs was reserved.

[7] The applicant has sought to have the Authority's earlier interim orders made permanent. The Authority has been advised by counsel there is no objection by the first or second respondents.

[8] Accordingly, the documentary evidence or information within the 15 pages attached to the applicant's memorandum of 28 April 2023, as referred to in paragraph [2] above, shall not be published at any time to any person, excepting those who were permitted access to it under the Authority's earlier orders of 1 and 9 May 2023 for the purposes of the application to which they related.

[9] This order is made under clause 10 of Schedule 2 of the Employment Relations Act 2000.

Alastair Dumbleton
Member of the Employment Relations Authority