BusinessCentral

EMPLOYER BULLETIN

5 August 2024
A Weekly News Digest for Employers

EMPLOYER NEWS

Promised cost of living relief is here

"I am thrilled to have delivered on our promise to Kiwi families who can keep more of their hard-earned money to put towards things that are important to them - their children, their weekly shop, paying their power bill," Nicola Willis said.

"Overall, 83 percent of Kiwis – 94 percent of households - will benefit from our tax package.

"On top of the tax changes, the new FamilyBoost payment, which reimburses families for a portion of their early childhood education fees, up to $150 a fortnight, was launched on 1 July. Families with children in ECE can find out if they are eligible at IRD.GOVT.NZ

"727,000 households will benefit by at least $75 a fortnight, and 187,000 will benefit by at least $100 a fortnight. On average, households will benefit by $60 a fortnight, and households with children by $78 a fortnight."

To read further, please click here.

Household living costs increase 5.4 percent

The cost of living for the average New Zealand household increased 5.4 percent in the 12 months to the June 2024 quarter, according to figures released by Stats NZ today.

The 5.4 percent increase, measured by the household living-costs price indexes (HLPIs), follows a 6.2 percent increase in the 12 months to the March 2024 quarter. The most recent high was 8.2 percent recorded in the 12 months to the December 2022 quarter.

Meanwhile, inflation – as measured by the consumers price index (CPI) – was 3.3 percent in the 12 months to the June 2024 quarter, following a 4.0 percent increase in the 12 months to the March 2024 quarter. The most recent high was 7.3 percent recorded in the 12 months to the June 2022 quarter.

Each quarter, the HLPIs measure how inflation affects 13 different household groups, plus an all-households group, also referred to as the average household. In contrast, the CPI measures how inflation affects New Zealand as a whole.

"Mortgage interest payments remain high, and continue to make a significant contribution to living costs for many households," consumer prices manager James Mitchell said.

To read further, please click here.

Transparent investment reporting to drive fiscal discipline

The Government has released its first Quarterly Investment Report as part of the drive to deliver better value for money from government expenditure and restore fiscal discipline, Finance Minister Nicola Willis and Associate Finance and Infrastructure Minister Chris Bishop say.

"We will be publishing these reports quarterly to provide the public with much better visibility of the government's investment portfolio, to improve investment discipline, and drive better performance from agencies," Ms Willis said.

"The first report prepared by The Treasury, to March 2024, is concerning. It indicates that some agencies are not meeting their reporting obligations, and there are significant issues with the quality and completeness of data reported including agencies not submitting investment proposals to the Treasury.

"The report also highlights a lack of long-term planning, insufficient attention to the investment reporting process, and inconsistent application of the rules and requirements of the investment management system."

"The report also highlights the risks of cost escalation and delivery delays. Ministers will be closely monitoring the progress and performance of these investments and will intervene where needed to get projects back on track," Mr Bishop said.

To read further, please click here.

Government supports 132 events to drive regional tourism

A total of 132 events are set to receive a funding boost to help attract more New Zealanders to the regions throughout the year and grow the economy, Tourism and Hospitality Minister Matt Doocey announced on Thursday.

"Regional events large and small are excellent drawcards for New Zealanders to explore beyond the main centres and see what our beautiful country has to offer," Mr Doocey said.

"Successful new events include the Goldrush Multisport Event in Central Otago, the Taupo Classic Disc Golf Tournament in Taupo and the New Zealand Cider Festival in Nelson. Recurring events getting a top-up include the Owhiwa Oyster Festival in the Bay of Plenty, the Steampunk NZ Festival in Waitaki and the NZ Surf Life Saving Championships in Tairāwhiti.

"We want to ensure our support is targeted at events that Regional Tourism Organisations (RTOs) and councils have already identified as opportunities to attract more domestic visitors to their regions. The 132 events receiving funding have therefore been selected on their ability to encourage domestic visitors to explore beyond the main centres.

"This investment will boost visitation to the regions outside of the peak summer season, which, in turn, will help create a more sustainable tourism and hospitality sector across the entire country and year-round.

The first round of the Regional Events Promotion Fund attracted 242 applications from 28 RTOs or councils not represented by an RTO.

Applications for Round Two are expected to open in March 2025 to ensure events scheduled for July and early August 2025 can benefit from additional promotion.

To read further, please click here.

Thousands more young people to get job coaching

A significant investment by the coalition Government in young job seekers will see an extra 2100 placed into community-led programmes that provide job coaches and other support to give them a better future.

Social Development and Employment Minister Louise Upston said an additional $9.45 million will be spent on expanding the number of places for young job seekers in community-led employment programmes from 5400 to 7500.

"Young job seekers in this country are forecast to spend about two decades of their lives on a benefit so we must do more to give them a better shot at a life.

"Our Government's new approach will see more funding for community organisations with proven track records of supporting young people off welfare.

"Under our Welfare that Works programme, more young people will get a needs assessment, a job plan and tailored support, including job coaching, to help them access education, training and employment opportunities."

This additional funding for 2024/25 will provide:

- 500 places with a selection of He Poutama Rangatahi providers for people aged 18-24 who have been on Jobseeker Support longer than a year
- 1600 places with regional providers for people aged 18-24 who have been on Jobseeker Support any period of time

To read further, please click here.

Regulatory review into agricultural and horticultural products now underway

Regulation Minister David Seymour, Environment Minister Penny Simmonds, and Food Safety Minister Andrew Hoggard have confirmed the regulatory review into the approval path for agricultural and horticultural products is now underway, with the terms of reference approved.

"This review by the Ministry for Regulation will look at how we can speed up the process to get our farmers and growers access to the sorts of safe, innovative products they need to remain competitive," Mr Seymour says.

"Right now, there are too many delays, and the process is too complex. It stops farmers and growers from getting access to products that have been approved by other OECD countries.

"One business I visited recently described the current process to me as like being in the ice cream queue behind a family of 13, because all applications – changes and new products – are in the same line. It all just takes too long.

"This has to change. The terms of reference released today outline the scope of the review, and the Ministry for Regulation is ready to take submissions.

To read further, please click here.

Applications for new innovation fund open today

Applications opened on Wednesday for the Government's first round of the new $10 million Mental Health and Addiction Community Sector Innovation Fund, Mental Health Minister Matt Doocey has today announced.

"This fund provides an excellent opportunity for non-government organisations (NGOs) and community mental health and addiction providers to receive extra funding for innovative time-limited projects and initiatives that will increase access to better mental health support.

"The Innovation Fund was inspired whilst listening to grassroots organisations who are already delivering for their communities.

"Investing in our hard-working NGO and community mental health and addiction providers will support this Government's priority focus on increasing access to mental health and addiction support, growing the mental health and addiction workforce, strengthening the focus on prevention and early intervention, and improving the effectiveness of mental health and addiction support" said Mr Doocey.

To read further, please click here.

Government lifts loan affordability assessment rules

The Government has removed detailed requirements for how lenders must conduct affordability assessments, while maintaining the overall CCCFA requirement that lenders must make reasonable inquiries to assess the affordability of a loan.

The Responsible Lending Code has been revised to support lenders to meet this requirement. The new Code provides updated guidance on how lenders can continue managing risk of unaffordable lending without the regulations, while supporting lenders to make responsible use of this greater flexibility.

Lenders are still required to keep good records of their affordability assessments to demonstrate compliance with the CCCFA.

These changes have been made as part of a package of reforms to financial services that aim to streamline the financial services regulatory landscape and remove unnecessary compliance costs.

To read further, please click here.

EMPLOYMENT RELATIONS AUTHORITY: FIVE CASES

Miscommunication and clash of styles leads to unjustified dismissal

In its earlier finding, the Employment Relations Authority (the Authority) ruled that Ms Keane was an employee and not a contractor. This summary follows on from that ruling and covers the claims lodged by Ms Keane for unjustified dismissal. She sought lost wages, compensation and costs. Genuine NZ Limited (GNZ) argued Ms Keane resigned when she walked out of a meeting with Ms Harris, one of GNZ's Directors, on 9 June 2023. If that was not the case, then her employment was terminated by way of a termination letter handed to her at a meeting on 13 June 2022.

Ms Keane was employed by GNZ for approximately three months in 2022 to carry out sales and marketing tasks with a new business that was starting to manufacture a pet food product called Petpow. Difficulties quickly arose between Ms Keane and Ms Harris. Ms Harris had issues with how Ms Keane was conducting herself but admitted she did not address them directly with Ms Keane. Ms Keane was very enthusiastic about her role and appeared to move faster in her thinking around developing the business than Ms Harris was wanting. The lack of understanding of each other's position played out in three events.

The first was a conversation over WhatsApp. Ms Keane was wanting to visit the factory and Ms Harris was counselling her to take a measured approach with staff. The messages showed that they both became increasingly frustrated with each other. Ms Harris decided to address Ms Keane's communication style at a meeting at Ms Harris' home on 9 June 2022. The main reason for meeting at Ms Harris' home was to clear out the garage and store Petpow products there instead of at the factory. They also discussed for Ms Keane to work on the Nelson market, to minimise contact with others who were unhappy with her communication style. While some of the facts of what was said were disputed, the outcome was that Ms Keane left the property, which Ms Harris interpreted as her resigning.

On 13 June 2022, Ms Keane was invited to a meeting with Ms Harris and her husband. Ms Keane was not sure why the meeting was formal so decided to record the proceedings. The meeting started by canvassing recent events, including the 9 June meetup at Ms Harris' home. Things then deteriorated and after a heated discussion about their respective positions, Ms Harris conveyed that she was terminating the contract between them and gave Ms Keane two weeks' notice. At the end of the meeting, Ms Harris gave Ms Keane a termination letter signed by director Ms Chinn and a shareholder, Mr Tsai. The letter was dated 9 June, the day of the disagreement at Ms Harris' house.

Ms Keane messaged both letter signatories to seek clarification, but they did not reply. Later that day, she received another termination letter signed by Ms Harris.

The Authority found Ms Keane was dismissed. Objectively, Ms Keane's actions in walking away from the meeting on 9 June could not be considered a resignation. The first termination letter dated 9 June 2022 was strongly indicative of the outcome being predetermined and GNZ's actions were not those of a fair and reasonable employer.

The concerns about Ms Keane were not raised with her. Instead, Ms Harris found solutions without alerting Ms Keane. She denied Ms Keane the opportunity to respond to the concerns and have any response taken into account before Ms Harris made decisions about what to do. Ms Harris' ultimate solution was to store the products in her garage and change Ms Keane's geographical area of work to minimize interpersonal disputes. No consultation occurred before changing how and where Ms Keane worked in order to address those issues, and the decision to terminate was likely made before the meeting to discuss everything. The Authority found Ms Keane had established a claim for unjustified dismissal.

The Authority observed that Ms Keane's approach to resolving differences with her employer contributed to the situation. Accordingly, compensation was reduced by 20 percent. GNZ was ordered to pay Ms Keane three months of lost wages and compensation of $16,000.08. Costs were reserved.

Keane v Genuine NZ Limited [[2024] NZERA 169; 22/03/24; S Kennedy-Martin]

Interim injunction on a restraint of trade is declined

Mr Andersen was initially employed by InterGroup Limited (InterGroup) to work from its Cromwell branch office as a driver/operator. His employment agreement with InterGroup contained restraint of trade provisions. His non-compete provision stated that he was not to engage in a business similar to InterGroup's business within 100 kilometres for a period of 12 months. His non-solicitation clause stated that he was never to solicit, or endeavour to solicit, any employee, officer, supplier or customer of InterGroup with no geographical limitation. Some months after resigning from InterGroup, he began working for Pipe Vision NZ Limited (Pipe Vision) as their South Island regional manager, based in Cromwell.

InterGroup said that within a week of Mr Andersen commencing employment in Cromwell for Pipe Vision, Mr Andersen contacted one of InterGroup's major customers. That customer was a government joint venture called Wakatipu Transport Programme Alliance (WTPA). InterGroup alleged that it was because of Mr Andersen contacting WTPA that caused them to leave InterGroup for Pipe Vision. This happened because Pipe Vision, through Mr Andersen, offered WTPA a rate which was $16 per hour less than InterGroup's rate. Various engineers of InterGroup clients also told InterGroup that Mr Andersen visited sites and called people to attempt to gain new work for Pipe Vision.

Mr Andersen and Pipe Vision denied that Mr Andersen had been involved in soliciting or attempting to solicit clients and employees of InterGroup. Pipe Vision set out evidence that it contacted WTPA through Mr Muir, operations manager for Pipe Vision. Pipe Vision provided a quote that resulted in obtaining the work.

InterGroup claimed that Mr Andersen breached the restraint of trade provisions in his employment agreement by working for Pipe Vision, and by soliciting employees and customers of InterGroup. It also claimed that Pipe Vision had induced Mr Andersen to breach the restraint of trade provisions in his employment agreement, and/or had interfered with the contractual relations between InterGroup and Mr Andersen by employing him and causing him to solicit InterGroup employees and customers.

The default position in any restraint of trade clause is that it is unenforceable. To establish an enforceable restraint of trade clause, InterGroup had to show that it had legitimate exclusive interests that it wished to protect, and that each restraint was no wider than was reasonably necessary to protect that proprietary interest. The Authority observed that there was at least an arguable case that Mr Andersen had gained access to these proprietary interests in the course of his employment with InterGroup.

However, both restraints of trade clauses were excessive and too wide. Both restraints needed to be tailored to the type of work Mr Andersen had done with InterGroup before the termination of his employment. The provisions restricted him from soliciting customers or employees he had contact with prior to the termination of his employment.

The Authority submitted that the duration of the clauses were excessive. InterGroup was also unable to indicate how long it required Mr Andersen to be bound to protect its interests. The Authority proceeded on the basis that 12 months was too long, and an indefinite period was excessive. The Authority submitted that it was more likely that three months for the noncompete restraint, and six months non-solicitation restraint, were more appropriate. The extent of information and client relationships might justify a geographic area wider than 100 km radius of Cromwell, but it would not extend to a national area.

The Authority concluded that InterGroup established that there was a serious question to be tried but InterGroup's case against both Mr Andersen and Pipe Vision was weak. Given that it was over seven months since Mr Andersen had left InterGroup, and that any modification of the restraints would reduce the time periods to six months or less, an injunction now would effectively give InterGroup more than it would be entitled to.

The balance of convenience did not favour granting an interim injunction for InterGroup. The overall justice of this case also did not favour granting the injunction sought. InterGroup's application for an interim injunction was declined. Costs were reserved.

InterGroup Limited v Andersen & Pipe Vision NZ Limited [[2024] NZERA 172; 25/03/24; P Keulen]

Redundancy process flaws lead to unjustified dismissal

Mr McKee employed Mr Singh as a stable hand from March 2018 until he was made redundant on 29 December 2020. Mr Singh raised claims with the Employment Relations Authority (the Authority) alleging that he was both unjustifiably dismissed and unjustifiably disadvantaged. He also advanced claims for wages as his final pay was incorrect, for public holidays, and for hours he worked at race meetings that were not paid.

His disadvantage claims related to allegations that he was bullied, and that Mr McKee had failed to respond to specific complaints made on 19 October 2019 and 25 November 2019. Mr McKee did not follow them up properly. Mr Singh did not raise these matters in his personal grievance, and they only came to light in his statement of problem to the Authority in March 2021. Given the length of time that had elapsed, the Authority could not consider these claims.

On the dismissal, Mr Singh had been invited to a meeting on 11 November 2020. At this meeting, he was told about a restructure which was explained in a four-page document titled "Proposal of Restructure or Disestablishment of Roles". The restructure proposal consisted of the removal of all three part-time positions. Mr Singh felt this was a misrepresentation, as one of the other part-timers had retired and the third had resigned, making him the only part-time employee left.

Mr Singh also noted the restructure proposed five full-time ground staff when there was six. One, who he believed Mr McKee was desperate to retain, had been stuck in India since the outbreak of COVID-19. He proposed his part-time role be made full-time to cover that absence. Mr Singh formally replied to Mr McKee, challenging the accuracy of the proposal and the number of staff it mentioned. He also raised concerns that, according to the definition of part-time staff as advised by Mr McKee, his role should have been considered full-time. Ultimately, the proposal was confirmed without amendment.

The Authority found that the consultation was incomplete and ill-informed. There was no evidence Mr Singh was fully advised of the situation giving rise to the proposal, and no evidence he was given a detailed appraisal of the financial situation said to justify the proposal. It was not certain whether the restructure was raised with the full-time staff. There was no evidence that they might have had a chance to give feedback on it, suggest alternate options, or even potentially depart voluntarily. Mr Singh was not provided an opportunity to consult on the proposed restructure.

While the evidence did not go so far as to convince the Authority that the process was a sham designed to see Mr Singh's removal, it did make it clear the process was truncated and incomplete. The dismissal was therefore found to be unjustified.

Mr Singh raised claims for unpaid wages, wrongly deducted wages, public holiday payments, and a shortfall in annual holiday payments. Ultimately, none of the claims were able to be established except his entitlement to a payment for a public holiday. The Authority declined to impose a penalty relating to Mr McKee not being able to provide an employment agreement. The evidence suggested that both parties had inadvertently lost their copy so there was no deliberate wrongdoing evident. Mr Mckee was ordered to pay Mr Singh three months' lost wages, payment for the public holiday he should have been paid for, $8,000 as compensation for hurt and humiliation, along with the Authority filing fee of $71.56. Costs were reserved.

Singh v SJ McKee Limited and Anor [[2024] NZERA 179; 27/03/24; M Loftus]

Employer breaches multiple employment obligations

BDIT Limited (BDIT) was directed by Mr Yuan and managed by his wife, Ms Sun. Mr Shao was a chef at a restaurant operated by BDIT. He had a work visa that only permitted him to work for BDIT. BDIT underpaid Mr Shao during his employment. He worked more hours than he was paid for, paid below minimum wage, not paid time-and-half for working on public holidays or provided with an alternative holiday, and not paid out annual leave entitlements correctly after his employment ended. He raised the issue of underpayment with Ms Sun and Mr Yuan on several occasions but to no avail.

When BDIT went into liquidation on 30 October 2020, the Labour Inspector (the Inspector) found that BDIT did not act as a fair and reasonable employer. The Inspector said Mr Yuan and Ms Sun should be held personally liable to pay any wages and leave entitlements BDIT owed Mr Shao, and for penalties for breaches of employment standards during his employment. The Inspector also sought an order requiring Mr Yuan to repay a premium he charged Mr Shao for his employment.

Mr Yuan admitted he received a premium of 100,000 Chinese yuan for the job, but said he repaid Mr Shao that money shortly before Mr Shao resigned. He also contested the Inspector's calculations for the shortfalls in paying the minimum wage, public holidays, and annual leave. He accepted that he should be personally liable for the breaches while Ms Sun denied her involvement, claiming she had limited authority.

The Employment Relations Authority (the Authority) found that Mr Shao was in fact paid incorrectly and underpaid. Mr Yuan was unable to provide accurate time records for Mr Shao. He claimed, without any proof, that his iPad, which supposedly contained the records, had been stolen. He was able to provide three sheets of handwritten records, which seemed too neat and uniform than was typical of such notes made daily or weekly. No original rosters were kept.

Mr Yuan contested Mr Shao's argument that he worked more during the COVID-19 lockdown period than was shown in the records, as they had fewer customers and reduced opening hours. Mr Shao explained that he was the only chef working during that period, and he had to work long hours even with less customers. While it was possible that Mr Shao had overstated his hours, without proper time and wage records, the onus was on Mr Yuan to prove that Mr Shao's claims were incorrect. Mr Yuan was unable to do this sufficiently.

BDIT did not pay Mr Shao any accrued holiday pay at the end of his employment, because he said he confused Mr Shao with another employee who used annual leave to go to China. This was an honest mistake. Mr Shao's unpaid annual holidays were calculated at $10,248.13.

Mr Shao was not paid time-and-a-half for working on public holidays or provided with alternative holidays. For this, Mr Shao was owed arrears of $1,971.86 for the public holiday wage and $1,732.50 in payment for alternative leave days. Failure to pay correctly for public holidays was a breach of the Holidays Act 2000. Interest was also awarded on the amount of arrears, calculated from his last day of employment.

Ms Sun argued that she was not an officer of BDIT as she was not "in a position to exercise significant influence over the management or administration of the entity". However, Ms Sun was a manager of BDIT. The Inspector tried to establish "guilt by association". Ms Sun occupied a role where she was aware of the issues and could have exercised significant influence to rectify the problems, therefore making her an officer of BDIT. The evidence did not establish Ms Sun, by deed or omission, actively aided, abetted or procured the failures to pay entitlements or keep records. Nevertheless, she could still be found to have been involved if her actions or omissions showed she was "in any way, directly or indirectly, knowingly concerned in, or party to, the breach".

The Court of Appeal in A Labour Inspector v Southern Taxis Limited confirmed that a person is knowingly concerned in a breach if they knew the primary or essential facts giving rise to the breach. Categories that were insufficient to escape liability were wilful blindness, not turning one's mind to the consequences of what they know, or genuinely but wrongly believing the obligations in question did not apply. Assessed broadly, it was more likely than not that Ms Sun was at least indirectly knowingly concerned with not paying Mr Shao for all the hours he worked and not paying his leave entitlements at the end of his employment.

The Authority ordered Mr Yuan to repay the premium of $21,000 back to Mr Shao. Mr Yuan said that he had already repaid the amount by identifying 23 cash withdrawals totalling $21,000 over a five-month period, but the Authority found it was just as likely that the cash was used for other purposes, like buying groceries. Interest from the last day of employment was ordered on the sum.

For the five breaches, Mr Yuan was liable for penalties of $4,000 for each breach. Ms Sun was liable for penalties totalling $10,000 for the three breaches directly related to the pay due to Mr Shao. Of these amounts, $6,000 of Mr Yuan's penalty and $3,000 of Ms Sun's penalty were ordered to be paid to Mr Shao.

The remainder was to be paid to the Crown's account. Mr Shao was also due arrears of wages and other money by BDIT, including $29,990.93 for minimum wages, $10,248.13 for annual leave entitlements, $1,971.86 as pay for working on public holidays, and $1,732.50 for alternative holidays. Costs were reserved.

Labour Inspector v Yuan and Sun [[2024] NZERA 189; 04/04/24; R Arthur]

Recorded conversations can be admissible in employment disputes

Ms Downer was employed by LM Architectural Builders Ltd (LM Architectural) as an administrator. She raised a personal grievance for unjustified dismissal and unjustified disadvantage at the Employment Relations Authority (the Authority). As part of her evidence, Ms Downer presented two recordings of conversations. The Authority had to decide if the recorded conversations could be admitted as evidence.

The first recording was a conversation between Ms Downer and Mr Meredith. Although the recording was made without Mr Meredith's knowledge, Ms Downer was a party to the conversation, so it was not deemed illegal. During the conversation, Mr Meredith alleged that Ms Downer was editing her CV during work hours, which he considered serious misconduct. He offered her two weeks' pay to finish work (presumably immediately). Ms Downer did not dispute the allegation, said she was happy to remain working until she found a new job, and would consider Mr Meredith's offer. Mr Meredith warned he would take disciplinary action if she did not accept the offer.

Mr Meredith alleged that this conversation was inadmissible because it was without prejudice. If the conversation was without prejudice, it would be privileged and therefore inadmissible. For there to be a valid without prejudice conversation, there must be a dispute between parties; any conversation that followed to resolve the dispute would be considered private.

LM Architectural argued that the first recording involved an offer to settle matters, making it without prejudice. It also referred to the Employment Relations Act 2000 (the Act) that stated that without prejudice privilege applied to statements made in relation to personal grievances. However, the section it relied on referred to actions for defamation, which was not the case here. Ms Downer argued that the first recording was not without prejudice, as there was no express reference to it being so, nor was it intended to be private or confidential. Rather, it was intended to constructively dismiss her.

The Authority noted that communication did not need to be labelled or referenced as being without prejudice for it to attract privilege. The Authority determined that the conversation was not a without prejudice communication. It was simply an allegation of the misuse of company time and a threat to take disciplinary action. The first recording was therefore determined to be admissible as evidence.

The Authority then turned to the admissibility of the second recording, which involved a telephone conversation between Mr Meredith and a third party that happened on the same day. Ms Downer had left her phone on her desk with the record function operating. She claimed she did this to protect herself from the accusations made by Mr Downer earlier. The Authority assumed from the nature of the conversation, and the fact that no one else was present at the time, that Mr Meredith was having a private telephone conversation with a third party.

The Authority first turned to the legality of the second recording. Although it was illegal under the Crimes Act 1961, this was not the Authority's concern. Rather, it had to determine whether the recording was improperly obtained. Given the secretive nature of the recording, and Mr Meredith thinking he was sharing a private conversation, the Authority concluded it had been improperly obtained.

Unlike criminal trials, there is no presumption that improperly obtained evidence was inadmissible in the Authority, as made clear in the Act and the case Firman v Insyn Ltd t/a Synergy Hair Riccarton. The Evidence Act 2006 also did not apply to the Authority. However, the Authority, in light of its roles and powers, found that improperly obtained recordings went against good-faith behaviour, did not sit well with equity and good conscience, and was a breach of a person's privacy.

If the second recording was admissible, it could compel Mr Meredith to give further evidence about the conversation, including who he was speaking to and what was said by that third party. There was also a stronger prejudicial impact weighing against the second recording being admitted as evidence. On the other hand, it might have significant probative value. The Authority therefore concluded that the second recording was inadmissible. All references were to be removed or redacted from the material already lodged with the Authority, and no further references to it were to be made. Costs were reserved.

Downer v LM Architectural Builders Ltd [[2024] NZERA 204; 08/04/24; P van Keulen]

For further information about the issues raised in this week's cases, please refer to the following resources:

Restructuring Toolkit

Restraint of Trade

Audio Recordings

LEGISLATION

Note: Bills go through several stages before becoming an Act of Parliament: Introduction; First Reading; Referral to Select Committee; Select Committee Report, Consideration of Report; Committee Stage; Second Reading; Third Reading; and Royal Assent.

Bills open for submissions to select committee: Five Bills

Inquiry into the aged care sector's current and future capacity to provide support services for people experiencing neurological cognitive disorders (19 August 2024)

Land Transport (Drug Driving) Amendment Bill (29 August 2024)

Regulatory Systems (Immigration and Workforce) Amendment Bill (04 September 2024)

Regulatory Systems (Economic Development) Amendment Bill (05 September 2024)

Customer and Product Data Bill (05 September 2024)

Overviews of bills-and advice on how to make a select committee submission-are available at: https://www.parliament.nz/en/pb/sc/make-a-submission/

The purpose of the Employer Bulletin is to provide and to promote best practice in employment relations.

If you would like to provide feedback about the Employer Bulletin, contact: comms@businesscentral.org.nz
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AdviceLine is your link to first-rate employment relations advice. Business Central understands the difficulties employers can have with managing employees, so supports you with dedicated employer advisors.

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Health and Safety and the well-being of your employees should be of paramount importance to any employer. To help you along the way, we have a friendly and knowledgeable Health and Safety Consultant.

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Employment Relations can be a difficult area to navigate. When you need close guidance on employment matters, you can rely upon our seasoned ER Consultants to be there to help.

LEGAL

When employees test the waters with a personal grievance, Business Central Legal are here to help. We offer representation in all employment law matters.

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AdviceLine is your link to first-rate employment relations advice. Business Central understands the difficulties employers can have with managing employees, so supports you with dedicated employer advisors.

This service is 100% inclusive of your membership. There is no time limit to your call, and the team is available 8am–8pm Monday to Thursday and 8am–6pm Friday.

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Whether it be best practice processes under the Employment Relations Act and the Health and Safety at Work Act, leadership training or personal development, the Business Central training team are dedicated to facilitating your business's professional learning.

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Health and Safety and the well-being of your employees should be of paramount importance to any employer. To help you along the way, we have a friendly and knowledgeable Health and Safety Consultant.

Adrienne has extensive experience with helping companies navigate Health and Safety requirements. She understands companies need to see sound return on investment for their well-being initiatives. Adrienne offers full support with compliance issues such as induction training and hazard identification and management. Additionally she can help with preparation for ACC 'Workplace Safety Management Practices'.

EMPLOYMENT RELATIONS CONSULTANTS

Employment Relations can be a difficult area to navigate. When you need close guidance on employment matters, you can rely upon our seasoned ER Consultants to be there to help.

Having someone equipped to help you do the work can take the stress out of a tricky situation.

Our Consultants have a wide range of experience and are prepared to help. Whether you need to update your agreements or policies, or embark on performance management, they have the experience to make a difference. There are so many areas they can help; it may be union issues and managing a difficult

relationship or it could be confirming a restructuring selection matrix.

LEGAL

When employees test the waters with a personal grievance, Business Central Legal are here to help. We offer representation in all employment law matters.

Business Central Legal provides you best return on investment for legal advice on employment law matters. Our team of lawyers are only available to members, and can help solve your tricky issues.

While you may think of lawyers as representing people in court, this is far from everything they do. Employers take advantage of the value of the Business Central Legal team to help in drafting documents such as tailored employment agreements and offers of employment. Additionally they can help with key guidance on difficult issues as restructuring processes and rock solid performance management plans.