

Reference No. HRRT 018/2012

IN THE MATTER OF

A CLAIM UNDER THE HUMAN RIGHTS ACT
1993

BETWEEN

GRANT STEPHEN PRATT

PLAINTIFF

AND

OPEL SECURITY LTD

FIRST DEFENDANT

AND

COMMISSIONER OF POLICE

SECOND DEFENDANT

BEFORE

Mr RPG Haines QC, Chairperson

Mr R Musuku, Member

Mr B Neeson, Member

REPRESENTATION

Mr Pratt in person

Mr G Raymond (security manager) for Opel Security Ltd

Mr A Murray for Commissioner of Police

DATE OF TELECONFERENCE: 26 September 2012

DATE OF DECISION: 1 October 2012

DECISION OF TRIBUNAL REGARDING REFERRAL TO HUMAN RIGHTS
COMMISSION FOR MEDIATION

Background

[1] The background to this case is set out in the complaint dated 26 January 2012 lodged by Mr Pratt with the Human Rights Commission:

On the 13/12/2011 I attended the Foo Fighters at Western Springs Auckland; I was in the silver embankment. There was security guards [Opel Security] standing in front on the of the crowd blocking the view. I asked one security guard [Opel Security] blocking my view to move and he did about 5 centimetres, smart arse. So I repeated my request but this time he had changed with another security guard and the next thing he grabbed me and marched me to the police telling them that I had threatened to kill them. Once the police heard that they hand cuffed me and marched me out of the concert. On the way out they were pulling my hair and using excessive force.

Now to tell you about me I was involved in motor vehicle accident and sustained head, internal and skeletal injuries, also I suffer from ataxia which is a balance defect which makes me appear drunk. The police did not talk to me the just assumed I was intoxicated and took my ticket of me.

I believe my human rights have been breached by the security guards [Opel Security] and by the police using excessive force also not even talking to me.

[2] On receipt of the complaint a Mediator from the Human Rights Commission wrote to Opel Security Ltd and to Police National Headquarters giving notice of the complaint and inviting mediation.

[3] Mr Raymond advises that Opel Security was not then aware of what was involved in the offered mediation and the company declined to participate. The Commissioner of Police similarly declined. That decision was made by a person working in employment relations who did not have prior experience with complaints under the Human Rights Act or with the mediation process under that Act.

[4] Mr Pratt then filed the present proceedings on 13 August 2012. He is seeking a written apology from both defendants and reimbursement of the cost of his ticket. At the present time both defendants have filed statements of reply but no other steps have been taken.

The application for referral to Human Rights Commission for mediation

[5] By application dated 10 September 2012 the Commissioner of Police applied for a direction referring Mr Pratt's complaint back to the Human Rights Commission for mediation, the proceedings before the Tribunal being placed on hold awaiting the outcome of that mediation.

[6] The Chairperson convened a teleconference on 26 September 2012 to ascertain the attitude of Mr Pratt and of Opel Security to the application. Those participating in the telephone conference were Mr Pratt in person, Mr Raymond, security manager for Opel Security and Mr Murray for the Commissioner of Police.

[7] Mr Murray explained that when the complaint was first made to the Human Rights Commission the Police mistakenly determined not to participate in the offered mediation process. That decision was made by someone unfamiliar with claims under the Human Rights Act. Now that Mr Murray is seized of the file he believes that there is much to be gained by mediation and he mentioned, for example, the potential for the Police to learn from Mr Pratt's disability. Mr Raymond supported the application and advised that Opel

Security also was now willing to engage with the mediation process, the company now having a better understanding of that process and its purpose.

[8] For his part Mr Pratt consented to the application. However, his consent was conditional on it being understood that should he be dissatisfied with the outcome of the mediation the current proceedings before the Tribunal can continue without them being refiled.

[9] In the result all parties are in agreement that the Tribunal should refer this matter to the Human Rights Commission for mediation.

Directions

[10] In the circumstances the following directions are made:

[10.1] Pursuant to s 92D(1)(b) of the Human Rights Act 1993 the complaint by Mr Pratt is referred back to the Human Rights Commission for mediation.

[10.2] So that the proceedings are not left in abeyance indefinitely the Secretary is to arrange a telephone conference in three months time, namely in the week commencing Monday 17 December 2012. The aim is for the Tribunal to be provided with an update and for the parties to seek such directions as may then be necessary.

[10.3] The proceedings before the Tribunal are stayed in the interim with leave reserved to all parties to seek further directions as and when the need arises.

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Mr RPG Haines QC
Chairperson

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Mr R Musuku
Member

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B Neeson
Member