

Reference No. HRRT 015/2018

UNDER THE HUMAN RIGHTS ACT 1993

BETWEEN MERVIN HILL

PLAINTIFF

AND PAVLOVICH COACHLINES LIMITED

DEFENDANT

AT WELLINGTON

BEFORE:

Ms SJ Eyre, Deputy Chairperson

REPRESENTATION:

Mr M Hill in person

Ms A Reid for defendant

DATE OF HEARING: Heard on the Papers

DATE OF DECISION: 26 August 2019

**DECISION OF DEPUTY CHAIRPERSON REFERRING COMPLAINT BACK TO
HUMAN RIGHTS COMMISSION AND RELATED ORDERS¹**

[1] Mr Hill applied for employment as a bus driver with Pavlovich Coachlines Limited trading as Urban Express (Pavlovich Coachlines). He was unsuccessful and believes the decision discriminated against him on the grounds of his medical condition. He complained to the Human Rights Commission, but the complaint was not resolved. After the convening of a teleconference on 31 July 2019 the parties agreed this matter should be referred back to the Human Rights Commission for mediation.

¹ [This decision is to be cited as *Hill v Pavlovich Coachlines Ltd (Referral back to Human Rights Commission)* [2019] NZHRRT 40.]

Referral back to Human Rights Commission

[2] As discussed in the teleconference, s 92D Human Rights Act 1993 sets out the circumstances in which a Deputy Chairperson can refer a complaint back to the Commission:

92D Tribunal or Chairperson or Deputy Chairperson may refer complaint back to Commission, or adjourn proceedings to seek resolution by settlement

- (1) ...
 - (2) The Tribunal or the Chairperson or a Deputy Chairperson may, at any time before, during, or after the hearing of proceedings, refer a complaint under section 76(2)(a) back to the Commission if it appears to the Tribunal or the Chairperson or a Deputy Chairperson, from what is known to it about the complaint, that the complaint may yet be able to be resolved by the parties and the Commission (for example, by mediation).
- ...

[3] Mr Hill and Pavlovich Coachlines both agree to the complaint by Mr Hill being referred back to the Commission for mediation. Accordingly, I consider based on what is currently known about this complaint that it may be able to be resolved by the parties and the Commission through mediation.

[4] The requirements of s 92D(2) are satisfied. The complaint will now be referred back to the Commission.

ORDERS

[5] For the reasons provided above the following orders are made:

[5.1] Pursuant to s 92D(2) of the Human Rights Act 1993 the complaint by Mr Hill is referred back to the Human Rights Commission for resolution by the parties and the Commission (whether through mediation or otherwise).

[5.2] To ensure the proceedings are not left in suspension indefinitely the parties are to provide the Tribunal with a written update by 5pm on Friday 20 December 2019, or earlier if a resolution is achieved.

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

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Ms SJ Eyre
Deputy Chairperson