

NZX Release

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EMPLOYMENT COURT VINDICATES MADISON'S TEMPORARY WORKFORCE

The Employment Court has ruled in favour of Madison Recruitment Limited (part of the Accordant Group) where eight of its former employees brought legal proceedings as plaintiffs claiming they should have been considered as employees of Inland Revenue, where in fact they were Madison employees on assignment with Inland Revenue.

The case confirmed the legitimacy of an organisations' use of contingent or temporary workers engaged through a labour hire agreement with an agency. In this particular case, Madison is the employer and has a business relationship with its client, Inland Revenue, to provide workers to help with seasonal demands or other peaks in workflow. This relationship sat within an "All of Government" procurement framework.

Simon Bennett, the CEO of Accordant Group, says that the full bench of the Employment Court (Justices Corkill, Holden and Beck) was unanimous in their view that all the processes and documents were unequivocal that the eight plaintiffs were Madison's employees.

"At para 157 of the decision ([2021] NZEmpC69) the Justices said "there were triangular arrangements between the parties. There was an overarching commercial agreement between Inland Revenue and Madison. Separately the plaintiffs signed documents which acknowledged Madison as their employer, not Madison's client. The other documents provided to them endorsed Madison's status as their employer. On the basis of the agreed provisions, Madison became the plaintiff's employer in each instance, not Inland Revenue."

Bennett notes that the case also highlights the need for employers to have thorough systems and fair practices in place, and this was demonstrated by Madison throughout their employees' assignments with Inland Revenue; with ongoing engagement and care that went much further than required by legislation to look after its staff. As expected for any employee, temporary staff are eligible for, and receive all statutory entitlements, including leave entitlements. They are also given the right to join unions and bargain collectively.

"I am proud of the care that my team was shown to have taken for the plaintiffs when they were in our employ, which was evident throughout the proceedings. Contingent workers play a hugely important role in the New Zealand economy and this labour hire model ensures workers can meet the seasonal demands or other increases in workflow for organisations in major sectors from government, major companies and the construction sector" says Bennett.

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