



Employer Identity Examined in *Courage v Attorney- General* [2024]

In November 2024, the Employment Court addressed the complex issue of employer identity within the Gloriavale religious community in the case *Courage v Attorney-General* [2024] NZEmpC 222.

Case Summary:

Three plaintiffs, who had been working within the Gloriavale community from the age of six, sought a declaration identifying their employer(s). Previously, in a 2022 case, the Court had determined that the plaintiffs were employees rather than volunteers. The challenge in the 2024 case was to ascertain who, within the intricate structure of Gloriavale's businesses, a partnership and a charitable trust, held the role of employer.

In the 2022 case, the Gloriavale defendants had classified the work of children, up to the age of 15 years, as “chores”, that at 15 years old they were in a “transitional education/work experience programme”, and then at 16 years old they became “Associate Partners”, which one witness described as self-employed contractors. Their pay was ultimately deducted from their personal bank account and paid into a Gloriavale shared account, the Court decision noted.

The definition of an employee is defined in section 6 of the

Employment Relations Act 2000 as follows:

6 Meaning of employee

- (1) In this Act, unless the context otherwise requires, employee —
 - (a) means any person of any age employed by an employer to do any work for hire or reward under a contract of service; and ...
 - (c) excludes a volunteer who—
 - (i) does not expect to be rewarded for work to be performed as a volunteer; and
 - (ii) receives no reward for work performed as a volunteer; and ...
- (2) In deciding for the purposes of subsection (1)(a) whether a person is employed by another person under a contract of service, the court or the Authority (as the case may be) must determine the real nature of the relationship between them.
- (3) For the purposes of subsection (2), the court or the Authority—
 - (a) must consider all relevant matters, including any matters that indicate the intention of the persons; and
 - (b) is not to treat as a determining matter any statement by the persons that describes the nature of their relationship.

Court Findings:

In 2022, the Court found that the plaintiffs were employees.

In the 2024 case, the Court found that:

The Overseeing Shepherd was the employer during the periods that each of the plaintiffs worked in the Gloriavale Community.

The plaintiffs may well have been simultaneously employed by other entities within the Gloriavale structure (jointly or otherwise).

Implications for Employers:

This case underscores the importance of clearly defining employment relationships, especially in organisations with multifaceted structures.

Employers should:

Clarify Employer Identity: Ensure that employment agreements explicitly state the employer's identity (applying the registered name), particularly in organisations with multiple entities or complex hierarchies.

Maintain Accurate Records: Keep detailed records of employment arrangements and organisational structures to prevent ambiguity regarding employer responsibilities, including when an employee moves from one role to another.

Understand the Obligations: Recognise that individuals performing work may be deemed employees, even from a young age, depending on the nature of the work and the control exercised over them, as well as whether they expect reward for the work done.

Do not hesitate to contact me if you would like to check your employment agreement wording or if you otherwise have any questions related to the topics addressed in this post.

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