

**IN THE HIGH COURT OF NIUE
(CIVIL DIVISION)**

Application No: CV2022-00138

BETWEEN

**ERNEST NEMAIA
Plaintiff**

AND

**CARL GODSMARK
Defendant**

Date: 5 December 2022

DECISION OF CHIEF JUSTICE C T COXHEAD

Introduction

[1] The Court has received a letter from Ernest Nemaia, Director of Shopexports and Freight Limited.

[2] It appears that the letter constitutes an application seeking a Court Order for the settlement of an outstanding invoice submitted to Mr Carl Godsmark.

Directions

[3] When the Court received the letter I made a direction advising that the Court will need evidence in terms of an affidavit explaining the situation and what has happened.

[4] I also advised that I could consider the application now, based on what the Court has or the applicant could provide more evidence in the form of a sworn affidavit for the Court to consider.

[5] The applicant responded by stating that after careful consideration, they will not be submitting an affidavit and to please consider the application based on what had been presented.



Decision

[6] There is no evidence supporting the one page letter. There is no sworn affidavit.

[7] For the Court to consider this one page letter as an application the Court is being asked to make a number of assumptions and fill in evidential gaps.

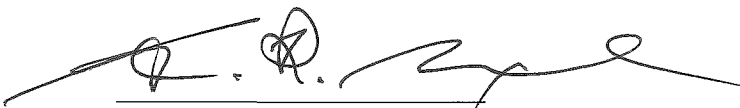
[8] There is no evidence of some oral or written agreement between the applicant and Mr Godsmark. There is no evidence of any terms of an agreement. There is no evidence of an invoice or that the invoice has not been paid or has been partly paid.

[9] This leaves the Court in a difficult position given the lack of evidence.

[10] The application is dismissed.

[11] However, if the applicant refiles a full application with supporting evidence within 1 (one) month, there will be no Court fee for that new application.

Dated at Rotorua, Aotearoa New Zealand this 5th day of December 2022.



C T Coxhead
CHIEF JUSTICE