

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE**

CIV-2019-404-303

UNDER The Judicial Review Procedure Act 2016

IN THE MATTER of an application for judicial review of
decisions made pursuant to an order under
s 9 and s 11 of the COVID-19 Public Health
Response Act 2020

BETWEEN GRAEME ROBERT HATTIE
Plaintiff/Applicant

AND THE ATTORNEY-GENERAL sued on
behalf of THE HONOURABLE
CHRISTOPHER HIPKINS in his capacity as
MINISTER OF HEALTH
First Defendant/Respondent

THE DIRECTOR-GENERAL OF HEALTH
Second Defendant/Respondent

Hearing: 8 July 2020

Appearances: SWB Foote QC, A M Cameron and S Kuper for the
Plaintiff/Applicant
A Martin and J Catran for the Respondents

Minute: 8 July 2020

MINUTE OF MUIR J

Counsel:
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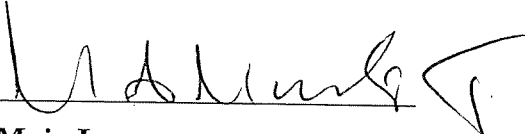
[1] I am advised by counsel for the applicant that Mr Robert Hattie passed away overnight and that the application for interim relief is accordingly withdrawn. I vacate the hearing on 8 July 2020 at 10.00 am accordingly.

[2] The expectation is that the substantive proceedings will be discontinued with no order as to costs. I direct a discontinuance (or in absence of agreement, a joint memorandum with proposed future directions) be filed by 10 July 2020.

[3] I express my condolences to the applicant in respect of this sad development. He should, however, always carry with him the knowledge that he could not conceivably have done more to console his late father in his final hours. He demonstrates the finest qualities possible in a son.

[4] I note also my provisional view that, to the extent the Director-General purports to have currently suspended *all* compassionate leave from managed isolation (that is without reference to country of origin, test status, confidence in compliance with conditions and other *personal* risk factors), it would appear to be inconsistent with proper exercise of the discretion in cl 8(2) of the Covid-10 Public Health Response (Air Border) Order 2020, for reasons similar to those developed in *Christiansen v The Director-General of Health*.¹ I reach that provisional conclusion on the grounds that “any exceptional reason” includes compassionate reasons.

[5] As a result, there appears an urgent need for the Director-General to readdress the terms of the current (purported) “blanket” suspension.



Muir J

¹ *Christiansen v Director-General of Health* [2020] NZHC 887.