

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 498/10  
5319765

BETWEEN                      AUCKLAND COUNCIL  
AND                                LAURA GEORGE

Member of Authority:        Yvonne Oldfield  
Representatives:              T.L. Clarke for Applicant  
    T. Drake for Respondent  
Determination:                30 November 2010

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**DETERMINATION OF THE AUTHORITY OF AN APPLICATION FOR  
REMOVAL**

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**Employment Relationship Problem**

[1]     The substantive problem that the applicant in this matter wishes to resolve is a claim for damages and penalties in relation to alleged breaches by the respondent of express and implied terms of the employment agreement between the parties.

**Issues**

[2]     On 8 November 2010 the applicant in this matter, Auckland Council, applied for it to be removed to the Employment Court at Auckland.

[3]     On 23 November the respondent replied to the application, stating:

*“The respondent does not support the application by the applicant for removal of the matter to Employment Court...but the respondent does not intend to take any action to oppose the application for removal.*

[4] There followed a brief exchange between the Authority and the representatives as to how the application for removal should be approached. Mr Drake advised that, since she did not intend to take action to oppose the application, the respondent had no comment on how the Authority should deal with it. Mr Clarke confirmed that the Council was agreeable for the matter to be determined on the basis of the papers already before the Authority.

[5] On that basis I now proceed to determine the issue of whether the matter should be removed to the Employment Court.

### **Determination**

[6] The application for removal was made on the following grounds:

- i. “The Court already has before it proceedings which involve the same parties and the same employment relationship (ARC 91/10.)*
- ii. The issues that arise in these proceedings are related to the issues in the existing proceedings ARC 91/10. This is because the subject of these proceedings involves “subsequently discovered conduct” which is relevant to the remedies that may be available to the respondent in ARC 91/10 under section 123 of the Employment Relations Act 2000...*
- iii. Consolidation of these proceedings and ARC 91/10 will result in a saving of time and costs for the parties.*
- iv. Removal of these proceedings to the Court will result in a more efficient allocation of judicial resources.*
- v. Removal of these proceedings to the Court and consolidation with ARC 91/10 will avoid a multiplicity of proceedings between the same parties.”*

[7] Section 178 (2) of the Employment Relations Act 2010 provides:

*“The Authority may order the removal of the matter, or any part of it, to the Court if-*

...

*(c) the Court already has before it proceedings which are between the same parties and which involve the same or similar or related issues”*

[8] Having dealt with the application for removal of the employment relationship problem which is the subject of ARC91/10 I am familiar with the issues involved in that case. I am satisfied that the issues in this case (while not the same or similar) are related to those issues as the applicant has submitted. The test in section 178 (2) (c) has therefore been made out.

[9] **I order the removal of these proceedings to the Employment Court in Auckland.**

Yvonne Oldfield

Member of the Employment Relations Authority