

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2018] NZERA Auckland 46
3024213

BETWEEN PAUL HINES
 Applicant

A N D EASTLAND PORT LIMITED
 Respondent

Member of Authority: T G Tetitaha

Representatives: P McBride, Counsel for the Applicant
 L Brown, Counsel for the Respondent

Investigation Meeting: On the papers

Submissions received: 30 January 2018 from applicant
 7 February 2018 from respondent

Date of Determination: 12 February 2018

DETERMINATION OF THE AUTHORITY

A. The application for removal is dismissed. Costs are reserved.

Employment Relations Problem

[1] I have issued a determination regarding the dismissal of Captain Paul Hines. I found the dismissal to be justified (the dismissal determination).¹ I adjourned several disadvantages raised by Captain Hines for the purposes of issuing a written determination about these within the statutory timeframe.

[2] Captain Hines has appealed the dismissal determination. He now seeks removal of the remaining disadvantage grievances to the Court. This is on the grounds it has the same parties and similar issues before it; to avoid embarrassment between the Authority and the Court in considering the same issues; public interest and urgency. The respondent does not object to the removal.

¹ *Paul Hines v Eastland Port Limited* [2018] NZERA Auckland 7.

Removal to Court

[3] The grounds for removal of a matter from the Authority to the Court are set out in s178 of the Employment Relations Act 2000.

[4] I accept there may be grounds under s178(2)(c) for removal because of the appeal of the dismissal determination. However the decision to remove is discretionary. I may also decline to remove a matter.

[5] I have determined to decline to remove this matter because:

- a) I am fully seized of all the evidence and submissions about this matter;
- b) It is not in the public interest to have expended such a large amount of time and money on hearing this matter without any outcome;
- c) My reasoning pertaining to the disadvantages determination will assist the Court in its consideration of the challenge to the dismissal determination if it intends considering the same facts;
- d) I intend issuing the disadvantage determination at the same time as dealing with this application. There is no issue of urgency;
- e) If dissatisfied, the parties have a right of appeal/challenge.

[6] The application for removal is dismissed. Costs are reserved.

T G Tetitaha
Member of the Employment Relations Authority