

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2018] NZERA Christchurch 83
3029811

BETWEEN A LABOUR INSPECTOR
Applicant

A N D JEET HOLDINGS NO 2
LIMITED
Respondent

Member of Authority: Peter van Keulen

Representatives: Ella Tait, Counsel for Applicant
Hamish Evans, Counsel for Respondent

Investigation Meeting: On the papers

Submissions Received: Written submissions for Applicant received on 11 May
2018
Written submissions for Respondent received on 29 May
2018

Date of Determination: 31 May 2018

DETERMINATION OF THE AUTHORITY

A. I remove matter 3029713 to the Employment Court.

B. There is no order for costs on this application.

Employment relationship problem

[1] The Labour Inspector has made an application to remove matter 3029713 to the Employment Court.

[2] The Employment Court already has proceedings before it, which involve the same parties concerning a similar fact scenario and involving similar or related issues. These proceedings include a matter lodged in the Authority under claim number 3024433 which I removed to the Employment Court¹.

[3] Both parties agree that it is in the parties and the witnesses interests that this further matter be combined with those now with the Employment Court. There is obviously a benefit in terms of time and costs if similar and related matters are all subject to one hearing. And the parties agree that the Employment Court is the best place to determine an overall assessment of penalties rather than have the Authority determine the ordinary penalties sought and the Employment Court determine the pecuniary penalties separately.

[4] For these reasons, both parties agree to this matter being removed to the Employment Court.

Discussion

[5] The Authority's power to remove a matter to the Employment Court is set out in s178 of the Act. I may remove a matter of my own motion or on the application of any party to the matter. The grounds on which I may order the removal of a matter are set out in subsection (2) and include:

- (2) The Authority may order the removal of a matter, or any part of it, to the Court if -
 - (a) An important question of law is likely to arise in the matter other than incidentally; or
 - (b) The case is of such a nature and of such urgency that it is in the public interest that it be removed immediately to the Court; or
 - (c) The Court already has before it proceedings which are between the same parties and which involve the same or similar or related issues; or
 - (d) The Authority is of the opinion that in all the circumstances the Court should determine the matter.

¹ [2018] NZERA Christchurch 42

[6] Subsection (2)(c) is advanced as the basis on which I should remove this matter.

[7] The proceedings before the Employment Court involve a similar fact scenario against the respondent. The issues to be resolved are similar, pertaining to imposing penalties for breaches of minimum standards; or at the very least related, as far as the total quantum of penalties is an appropriate consideration.

[8] I accept the parties' position on this. That is, it is appropriate to remove matter 3029713 to the Employment Court as the Court already has proceedings before it involving the same parties and involving the same issues.

[9] I am also satisfied that in all of the circumstances the Employment Court should determine matter 3029713.

Determination

[10] I remove matter 3029713 to the Employment Court.

Costs

[11] There is no order for costs on this application.

Peter van Keulen
Member of the Employment Relations Authority