

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2013] NZERA Auckland 293  
5412018

BETWEEN                      JOANNE ROBERTS  
                                         Applicant  
  
A N D                              BANK OF NEW ZEALAND  
                                         Respondent

Member of Authority:      T G Tetitaha  
  
Representatives:              R Alchin, Counsel for Applicant  
                                         L Robinson & A Naghi Zadeh , Counsel for Respondent  
  
Investigation Meeting:      On the papers  
  
Date of Determination:      10 July 2013

---

**DETERMINATION OF THE AUTHORITY**

---

- A.      Upon the application of Ms Roberts, this matter in its entirety is removed to the Court for hearing and determination without the Authority investigating it further (s178(2)).**
- B.      If either party seeks an order for costs a memorandum shall be filed 28 days from the date of this determination. The other party shall have a further 14 days in which to file and serve a reply.**

**Employment relationship problem**

[1]      An application for removal of the matter to the Employment Court was filed on or about 1 July 2013. The applicant has filed an appeal *de novo* against the determination of the Authority dated 29 May 2013. The determination dismissed Ms Roberts personal grievance of unjustifiable disadvantage arising from the BNZ's failure to do a sick leave review, including meeting with the applicant and a failure to actively consult with the applicant regarding her sick leave.

[2] There are two further unjustified disadvantage claims still to be investigated. Firstly whether the applicant was unjustifiably disadvantaged by being subjected to a disciplinary process following allegations of serious misconduct relating to transacting on her own bank account. Secondly whether the applicant was unjustifiably disadvantaged by the implementation of a coaching plan accompanied by the threat of further disciplinary action. The parties were directed to liaise with the Support Officer regarding availability for a one day urgent fixture in Hamilton in June, July and August 2013 to deal with the outstanding issues.

[3] Two Minutes of the Employment Court dated 19 June and 4 July 2013 have now been issued regarding the appeal and the application for removal.

[4] The Authority may order the removal of a matter to the Court to hear and determine without investigating it (s.178(1)). A ground for exercising its discretion to remove include where *the Court already has before it proceedings which are between the same parties and which involve the same or similar or related issues* (s.178(2)(c)).

[5] The Court has before it an appeal of the determination of the Authority dated 29 May 2013. If successful, the merits of the matter under appeal shall still have to be determined. This requires determination of the other two outstanding and related issues.

[6] Given the current appeal and its relationship with the outstanding issues for investigation and the absence of any order for stay, it appears sensible that one body remain seized of this matter for determination. The respondent consents to the matter being removed.

[7] This is the situation contemplated by s.178(2)(c) of the Act. In the circumstances, the Authority orders this matter be removed to the Employment Court.

[8] If either party seeks an order for costs it shall have 28 days from the date of this determination in which to file and serve a memorandum on the matter. The other party shall have a further 14 days in which to file and serve a reply.

**T G Tetitaha**  
**Member of the Employment Relations Authority**

