

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 131/07
5099118

BETWEEN

DOUGLAS STEVENS
Applicant

AND

NELSON MARLBOROUGH
INSTITUTE OF
TECHNOLOGY
Respondent

Member of Authority: Paul Montgomery

Representatives: Tony Stallard, Counsel for Applicant
Maree Kirk, Counsel for Respondent

Investigation Meeting: On the papers

Determination: 7 November 2007

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant, by his solicitor, lodged a personal grievance with the Authority on 6 September 2007. That application was accompanied by an Application for Removal of the Matter to the Employment Court.

[2] In the course of the teleconference on Wednesday, 12 September 2007, it was agreed that a full statement in reply to the Application for Removal would be held in abeyance pending the outcome of mediation between the parties. The Mediation Service met with the parties on 5 October 2007. However, the parties were unable to settle their differences.

[3] The Authority was advised by email from the respondent's counsel that it neither opposed nor endorsed the Application for Removal. This was confirmed to the Authority during a brief teleconference on 7 November 2007.

Ground for removal

[4] In his substantive application, the applicant cites seven issues he wishes to be resolved, including one in respect of the Contractual Remedies Act and one in respect of the Fair Trading Act.

[5] Mr Stallard submits that in this matter important questions of law are likely to arise other than incidentally and that, in all the circumstances, the Court should determine the matter. Counsel submitted that issues relating to estoppel, the Contractual Remedies Act, the Fair Trading Act and Rectification are at the heart of this matter.

Determination

[6] Having re-read the five causes of action set out in the substantive application, and after confirming that the respondent does not oppose the removal application, I concur that this is a case which meets the criteria set out in s.178 of the Employment Relations Act 2000, and accordingly I order that the matter be referred to the Employment Court for determination.

Costs

[7] Costs are reserved.

Paul Montgomery
Member of the Employment Relations Authority