

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 158/08
5117325

BETWEEN SHAUN WYATT-MARTIN
 Applicant

AND COASTLINES LIMITED
 Respondent

Member of Authority: Helen Doyle

Representatives: Robert Thompson, Counsel for Applicant
 Bryce Quarrie, Counsel for Respondent

Submissions received: 13 October 2008 from Applicant
 7 October 2008 from Respondent

Determination: 23 October 2008

PRELIMINARY DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Mr Wyatt-Martin lodged a statement of problem with the office of the Christchurch Authority in which he said he was unjustifiably disadvantaged and unjustifiably dismissed by Coastlines Limited (Coastlines).

[2] Coastlines say in its statement in reply that the appropriate venue for the Authority investigation meeting is Kaitaia and applies under Regulation 13(2) of the Employment Relations Authority Regulations 2000 to transfer the proceedings to the Auckland office of the Authority and then to have the problem investigated in Kaitaia.

[3] The preliminary issue for the Authority to determine is whether the proceedings should be transferred to the Auckland office of the Authority.

Whether the proceedings should be transferred to the Auckland office of the Authority

[4] The primary reason that Coastlines seek to have the proceedings transferred is that the company and its principal officers are located in Kaitaia and Mr Wyatt-Martin was interviewed in Kaitaia and that is where the decision to employ him was made.

[5] It is submitted on Mr Wyatt-Martin's behalf that he lived in and carried out his duties in Christchurch and also throughout the South Island. Mr Wyatt-Martin, it is submitted, only travelled to Kaitaia at the time of his interview.

[6] The events that give rise to the problems alleged (unjustified disadvantage and dismissal) were events that I accept, on the face of correspondence attached to the statement of problem, occurred in Christchurch.

[7] Mr Quarrie submits that applying the *place where the problem occurred* criteria would be of little assistance and that other factors can be relevant such as convenience, witness location and cost.

[8] Regulation 13 of the Employment Relations Authority Regulations 2000 provides that the office of the Authority for lodging the statement of problem is the office that the person lodging the application considers to be the nearest by the most convenient route to the place at which the events that gave rise to the problem occurred. An officer or a member of the Authority may direct the transfer from one office to any office on his or her own notion or an application of the parties.

[9] Although there are some discretionary factors in this case that I may have regard to, I find that none of these factors such as witness numbers and expenses and costs override the primary consideration that the application should be dealt with in the office of the Authority nearest to the place at which the event that gave rise to the problem or problems occurred *Dymond v. Prestige Hotel Group Ltd* WA 33/03 Member G Wood.

[10] I am satisfied that the office nearest to the place at which the events that gave rise to the alleged problems occurred is Christchurch. The application to transfer the proceedings to the Auckland office of the Authority is declined and the employment relationship problem will be investigated in Christchurch.

[11] A support officer will arrange a telephone conference in due course to allocate the matter of dates.

[12] The parties have only attended mediation by telephone because of this issue. Mr Thompson suggested during a subsequent telephone conference with the Authority and Mr Quarrie that there would be some benefit if on the day of the investigation meeting some time could be spent with a mediator to see if resolution of the problem is possible.

[13] That seems like a sensible approach and can be discussed when the investigation meeting date is fixed.

Costs

[14] I reserve the issue of costs to be dealt with when the matter is finally determined.

Helen Doyle
Member of the Employment Relations Authority