



New Zealand Employment Relations Authority Decisions

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Dabbour v Halliburton New Zealand (Auckland) [2016] NZERA 657; [2016] NZERA Auckland 397 (6 December 2016)

Last Updated: 4 April 2017

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2016] NZERA Auckland 397
5630132

BETWEEN MOHAMED DABBOUR Applicant

A N D HALLIBURTON NEW ZEALAND

Respondent

Member of Authority: T G Tetitaha

Representatives: Applicant in person

P McCarthy, Counsel for Respondent

Submissions received: 18 November 2016 from Applicant

30 November 2016 from Respondent

Investigation meeting: On the papers

Date of Determination: 6 December 2016

DETERMINATION OF

THE EMPLOYMENT RELATIONS AUTHORITY

A. The place for hearing shall be New Plymouth. Employment Relationship Problem

[1] This is a personal grievance of unjustified dismissal arising from redundancy. There is a preliminary issue about the venue for hearing. The cause of action arose in Dubai, United Arab Emirates. The respondent is resident in New Plymouth. The applicant now resides in Auckland. The majority of witnesses live overseas in various locations.

[2] The respondent has filed an application seeking the hearing venue is in New Plymouth. This is because it is cheaper and more convenient to it. It is able to accommodate and prepare its witnesses at less cost if New Plymouth is the venue. Respondent Counsel resides there. There are documents relevant to this proceeding

accessible there. It is also prepared to fly the applicant and accommodate him for one night in New Plymouth for the hearing. In short it submits this favours the venue being New Plymouth.

[3] The applicant submits the more convenient venue is Auckland. This is because he wishes to bring a support person and there is additional cost in consulting his local lawyer. He believes the additional costs of flying to New Plymouth outweigh those of accommodating the overseas witnesses overnight in Auckland.

Determination

[4] Every investigation meeting or interview must be held at such place as the Authority considers appropriate.¹ Appropriate

in its common usage means “suitable or proper in the circumstances.”² In the absence of parties consent, the place for hearing in the Authority is generally determined by issues of convenience and fairness.

[5] It is well recognised within the Authority that the place for hearing may differ from the place for lodging documents. This is because the Authority registries cover substantial geographical areas. Employment relationship problems that arose in Tauranga are required to be filed in Auckland but may be heard in Tauranga.

[6] Where the cause of action arose is not determinative of venue here. The employment relationship ended while the applicant was resident and working in Dubai. He now resides in Auckland. The venue nearest to where the respondent resides is in New Plymouth. The respondent’s willingness to pay for the applicants travel to New Plymouth removes any issue of cost to the applicant in travel.

[7] The applicant does not have a lawyer on record although he says he consults Auckland Counsel. He is able to continue consulting them at a distance irrespective given they are not appearing at hearing. The applicant wishes to have a support person present. There is no requirement for a support person to be present at an investigation meeting.

¹ Reg. 20 of the Employment Relations Regulations 2000.

² English Oxford Dictionary <https://en.oxforddictionaries.com/definition/appropriate>.

[8] I accept there are additional costs for the respondents logistically in accommodating and flying witnesses into Auckland New Zealand. They are better resourced to service and accommodate witnesses and Counsel in New Plymouth.

[9] On balance, New Plymouth is the more convenient and fair venue for hearing than Auckland. The place for hearing shall be New Plymouth. Each party is to meet their own costs of this application.

T G Tetitaha

Member of the Employment Relations Authority

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