

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2013] NZERA Christchurch 134
5421559

BETWEEN

STEPHEN DAVIS
Applicant

A N D

THE COMMISSIONER OF
POLICE
Respondent

Member of Authority: Christine Hickey

Representatives: Jeff Goldstein, Counsel for Applicant
Edrick Child, Counsel for Respondent

Investigation meeting: On the papers

Submissions Received 10 June 2013 and 21 June 2013

Date of Determination: 3 July 2013

DETERMINATION OF THE AUTHORITY

A. This matter is to be removed to the Employment Court.

Employment relationship problem

[1] Stephen Davis has made an application to the Employment Relations Authority claiming that he was unjustifiably disadvantaged in his employment on 16 July 2010, 13 September 2010, 1 November 2011 and 30 April 2012. He also claims that the respondent failed to meet its good faith obligations.

[2] Mr Davis has also applied under s.178 of the Employment Relations Act 2000 for the removal of the matter to the Employment Court for hearing and determination. The particular ground relied on is that 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). The proceedings before the Employment Court are directly related to two of the applicant's personal grievance claims currently filed in the Authority. The applicant submits that the other two claims have a relationship with or are similar or related to proceedings currently before the Employment Court (ARC 88/10).

[3] The respondent consents to the application for removal to the Employment Court.

Background

[4] Mr Davis brought proceedings against the Commissioner of Police in the Employment Relations Authority in Auckland in 2010 (AA 313/10, 5 July 2010). He was unsuccessful. However he has challenged that determination to the Employment Court.

[5] The respondent agrees that the first two grievances raised in the latest statement of problem are reasonably closely related to the matters that will be the subject of the Employment Court proceeding. It also says that those two new grievances are dependent on an understanding of, and findings in respect of, the earlier events. It agrees with the applicant that it makes sense for those personal grievances to be heard together with the matters already before the Court.

[6] The respondent submits that the latter two grievances are not related to the earlier proceedings. However, it states that the grievances all continue to be about the applicant's dissatisfaction with the way he has been treated in his employment and the way his concerns have been responded to within the Police. The respondent suggests that it is probably more convenient and efficient for the parties if all of the applicant's complaints are heard at the same time and in the same forum.

Order for removal

[7] I accept the Court already has before it proceedings which are between the same parties and which, for at least the first two new personal grievances, involve the same or similar issues.

[8] In addition, the latter two personal grievances before the Authority are related issues to the proceedings already before the Employment Court. In all the

circumstances I agree that it is appropriate for the Employment Court to determine all matters between the parties. Accordingly I order this matter be removed to the Employment Court.

Christine Hickey
Member of the Employment Relations Authority