

the personal grievance was raised". It follows that if the Authority is mistaken and a personal grievance was raised at the time of the events complained of, it is well beyond five years since the termination of the employment.

[4] The Authority convened a telephone conference with the parties, and the Authority's intention was to make it clear to both parties that, given the absence of anything before the Authority indicating that a personal grievance had ever been raised, and the passage of time, unless Mr Frazer was proposing to make an application for a personal grievance to be considered out of time, based on the exceptional circumstances rule, the matter was at an end because there was no justiciable cause of action.

[5] In the result, Mr Frazer did not attend the telephone conference and the Authority has decided to issue this interim determination to make clear the position.

[6] As the Authority has already intimated, unless an application is made falling within the terms of the exceptional circumstances in the Act, there is no basis on which the application can continue. On the face of it, there is no evidence at all to suggest that a personal grievance was ever raised. That is the conclusion the Authority reaches from a perusal of the file. The Authority has also carefully questioned the representative for the respondent (Pan Pacific) and while the representative acknowledges that they were not involved at the time the employment of Mr Frazer came to an end, their understanding of the position is that Pan Pacific has never received a personal grievance from Mr Frazer.

[7] On that basis, there is simply no footing on which the matter can continue, and in fairness to the respondent, it is not appropriate that the matter be left unresolved.

[8] After failing to appear at the telephone conference, Mr Frazer wrote to the Support Officer and asked for a deferral of a month in order to "*prepare his case*". Given the unreasonable delays to date, that seems completely unrealistic and the request is denied.

Determination

[9] The Authority has decided that there is no legal basis on which the present claim by Mr Frazer against Pan Pacific can continue because it is not evident that a personal grievance was ever raised and the employment concluded in August 2007.

[10] The only basis on which Mr Frazer can continue with his proceedings is on the footing that he can satisfy the Authority that a personal grievance was raised within 90 days of the events he complains of, or if he makes an application to the Authority to proceed on the basis of the “*exceptional circumstances*” rule and the Authority grants that request.

[11] On those bases alone, leave is reserved for Mr Frazer to revert to the Authority. Otherwise, the matter is at an end.

Costs

[12] Costs are to lie where they fall.

James Crichton
Member of the Employment Relations Authority