



**A. I remove this matter to the Employment Court.**

**B. There is no order for costs on this application.**

### **Employment relationship problem**

[1] The Labour Inspector has made an application to remove the substantive matter, under file number 3024433, to the Employment Court. The application is made on the following grounds:

- (a) The Employment Court already has proceedings before it which concern the same parties (with the exception of the fifth respondent) concerning a similar fact scenario and involving similar or related issues.
- (b) It is in the interests of the parties and the witnesses that the matters be combined and subject to one hearing.
- (c) The Court may be the best place to determine an overall assessment of penalties rather than have the Authority determine the ordinary penalties sought and the Court determine the pecuniary penalties separately.

[2] The respondents consent to matter 3024433 being removed to the Employment Court.

### **Discussion**

[3] The Authority's power to remove a matter to the Court is set out in s178 of the Act. I may remove a matter of my own motion or on the application of any party to the matter. The grounds on which I may order the removal of a matter are set out in subsection (2) and include:

- (2) The Authority may order the removal of a matter, or any part of it, to the Court if -
  - (a) An important question of law is likely to arise in the matter other than incidentally; or
  - (b) The case is of such a nature and of such urgency that it is in the public interest that it be removed immediately to the Court; or
  - (c) The Court already has before it proceedings which are between the same parties and which involve the same or similar or related issues; or

(d) The Authority is of the opinion that in all the circumstances the Court should determine the matter.

[4] Section (2)(c) is advanced as the basis on which I should remove this matter.

[5] As identified above the proceedings before the Court involve a similar fact scenario against all of the respondents except the fifth respondent. The issues to be resolved are similar, pertaining to imposing penalties for breaches of minimum standards; or at the very least related, as far as the total quantum of penalties is an appropriate consideration.

[6] I accept the parties' position on this matter. That is, that it is appropriate to remove matter 3024433 to the Employment Court as the Court already has proceedings before it involving the same parties and involving the same issues.

[7] I am also satisfied that in all of the circumstances the Court should determine this matter.

### **Determination**

[8] I remove matter number 3024433 to the Employment Court.

### **Costs**

[9] There is no order for costs on this application.

Peter van Keulen  
Member of the Employment Relations Authority