

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN	Lynne Snowdon (applicant)
AND	Radio New Zealand Limited (respondent)
REPRESENTATIVES	Rob Moodie for the applicant Michael Quigg for the respondent
MEMBER OF THE AUTHORITY	Denis Asher
SUBMISSIONS RECEIVED	13 & 23 May 2005
DATE OF DETERMINATION	25 May 2005

DETERMINATION OF AUTHORITY: Application for Removal to the Court

Employment Relationship Problem

1. By way of an application received on 5 May 2005 Ms Lynne Snowdon seeks interim reinstatement to her position with Radio New Zealand (RNZ), following the latter's decision to dismiss her on 11 April 2005.
2. An earlier personal grievance filed by Ms Snowdon was subsequently moved – at her initiative and to which RNZ consented – by the Authority (WA 101/04 dated 6 August

2004) into the Employment Court (WRC 17/04) where it awaits a hearing and determination.

3. During a telephone conference convened by the Authority on 9 May counsel for RNZ, Mr Michael Quigg, indicated his client would be seeking a removal of this latest application to the Employment Court. Its application was received on 13 May. The application is opposed by Ms Snowdon. The parties agreed on a timetable for submissions.

RNZ's Position

4. The basis of RNZ's application is that the Employment Court already has before it proceedings between the same parties and which involve the same or similar or related issues.
5. RNZ's application relies on various grounds including comments made by Ms Snowdon in an affidavit dated 26 August 2004 in support of an interlocutory application to the Court, in which Ms Snowdon stated:

"I instructed Counsel to file an application with the Court so that my personal grievances and employment problems underlying them can be resolved in a way that enables me to continue my career with Radio New Zealand"

(par 7)

6. Later she attested:

"I have filed proceedings in the Employment Court because I want an independent inquiry and determination of the issues that continue to affect me in my employment"

(par 9)

7. The proceedings involving the parties before the Court have been subsequently significantly enlarged.

8. Ms Snowdon's statements of problem indicate that any hearings are likely to involve the same witnesses and documents. Hearing times would be duplicated as would costs to both parties should the Authority proceed to investigate the applicant's latest personal grievance. There may even be overlapping hearings. At the end of the Authority's investigation both parties would have *de novo* challenge rights.

Ms Snowdon's Position

9. In some detail which I do not need to replicate here, Ms Snowdon opposes the application for removal on the grounds that:
 - a. No important question of law is involved;
 - b. The case is not of a nature or urgency that it is in the public interest it be removed;
 - c. The Court does not have before it proceedings which are between the same parties and which involve the same or similar or related issues; and
 - d. There are no circumstances justifying the removal of the matter.

Discussion and Findings

10. I do not accept Ms Snowdon's position for the following reasons:
11. The Court has had considerable contact with the parties to date and has had the benefit of extensive documentation and evidence about the parties' employment relationship being put to it. While RNZ's decision to dismiss Ms Snowdon has not been part of that background, I am satisfied that the Court nonetheless has or has had before it much of the background and many of the details leading to that decision: s. 178(2)(c).
12. Finally, I am satisfied that, in all the circumstances, the Employment Court should determine the matter: s. 178(2)(d) of the Act. I reach this decision taking into account the lengthy history of litigation between the parties. That history includes a number of appearances before the Employment Court and an appeal to the Court of Appeal

applied. A determination by the Authority in respect of RNZ's decision to dismiss Ms Snowdon is, I consider, almost certain to trigger a similar sequence.

Determination

13. For the reasons set out above I find in favour of Radio New Zealand's application that this matter be removed to the Employment Court for hearing and determination.

14. Costs are reserved.

Denis Asher
Member of Employment Relations Authority