

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 329A/09
5273643

BETWEEN

NICOLA WEE
Applicant

AND

SKYCITY ENTERTAINMENT
GROUP LIMITED
Respondent

Member of Authority: Alastair Dumbleton

Representatives: Eska Hartdegen, counsel for Applicant
Richard McIlraith and Kylie Dunn, counsel for
Respondent

Determination: (On Papers) 5 October 2009

DETERMINATION OF THE AUTHORITY

Application for removal to Employment Court

[1] The background to the investigation by the Authority currently taking place in relation to Nicola Wee and her employment with Skycity Entertainment Group Limited is set out in the determination of the Authority dated 11 September 2009 (AA329/09).

[2] In its determination the Authority declined to order the interim reinstatement of Ms Wee to Skycity, as had been sought by her.

[3] The substantive investigation of her personal grievance and other claims is set down for 7 and 8 October 2009.

[4] The Authority's determination was challenged by Ms Wee to the Employment Court on 18 September 2009 and this will be heard on 6 November 2009.

[5] On 1 October the Authority received an application by Ms Wee for removal of her case to the Court, made under s 178 of the Employment Relations Act 2000.

[6] A ground for removal put forward on behalf of Ms Wee is that the Court has before it the challenge which is a proceeding between the same parties and which involve the same or similar or related issues. This ground is provided by s 178(2)(c) of the Act.

[7] It is submitted for Ms Wee that removal will allow all matters to be heard together in the Court. This will also address the possibility if not a likelihood that a further challenge will be made after the Authority's determination on the substantive claims.

[8] On that basis, it is submitted that it would be more cost-effective for both parties if the matter in the Authority was removed to the Court.

[9] Reliance is also placed in the application on there being an important question of law likely to arise in the matter other than incidentally. I do not find this to be so, as the issues before the Authority are largely ones of fact and degree. The applicable principles of law have been well established and identified by the Courts.

[10] The Court has recently advised that 4, 5 and 6 November are available for a substantive hearing of all Ms Wee's claims.

[11] Counsel Mr McIlraith has advised that SkyCity does not oppose the application for removal. The employer is ready for the substantive investigation to be held in the Authority on 7 and 8 October but it naturally wishes to see this matter conclusively resolved as soon as possible and in the most cost-effective manner, for the good of all concerned. Mr McIlraith therefore considers that this will best be achieved by allowing all matters to be heard together in the Court, following removal from the Authority.

[12] I therefore grant removal on the basis provided under s 178(2)(c) of the Act.

[13] I am also of the opinion that in all the circumstances the Court should determine the matter, a further ground that is provided under s 178(2)(d) of the Act.

A Dumbleton

Member of the Employment Relations Authority