

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 49/10  
5163908

BETWEEN                      NING WANG  
   Applicant  
  
AND                                HAMILTON  
   MULTICULTURAL  
   SERVICES TRUST  
   Respondent

Member of Authority:      Vicki Campbell  
  
Representatives:            Applicant in Person  
   Rebecca Fraser for Respondent  
  
Investigation:                On the Papers  
  
Determination:               8 February 2010

---

**DETERMINATION OF THE AUTHORITY**

---

[1] Mr Wang lodged a personal grievance in the Authority for unjustified disadvantage in May 2009. A jurisdictional issue arose with regards to whether Mr Wang's complaint of unlawful discrimination made to the Human Rights Commission and associated mediation precluded him from pursuing his personal grievance in the Employment Relations Authority.

[2] On 20 November 2009 the Employment Court determined Mr Wang was entitled to pursue his personal grievance before the Authority (AC43/09) and the matter has been set down for an investigation meeting.

[3] Simultaneously to the issues of jurisdiction with regard to the disadvantage grievance, being determined by the Authority and then the Employment Court, Mr Wang was dismissed by reason of redundancy. Mr Wang pursued a second personal grievance in the Employment Relations Authority challenging that dismissal (AA449/09). Mr Wang has challenged that determination (ARC 1/10).

[4] On 14 January 2010 Mr Wang lodged an application to have his personal grievance for unjustified disadvantage removed to the Employment Court on the grounds that the Court has before it a matter between the same parties and which involve the same or similar or related issues<sup>1</sup>. The Respondent consents to the matter being removed.

[5] I find the grounds for removal have been met because I am satisfied the matters raised in the disadvantage grievance are of such a concurrent nature that a sufficient nexus exists between the first and second personal grievances.

[6] I am also satisfied that even if the matter was first determined by the Authority, Mr Wang has demonstrated that there is a distinct possibility that the parties will ultimately return to have the problem re-litigated in the Employment Court. It seems to me, therefore, that it will be a more effective use of the resources of both parties for this matter to be removed to the Court.

[7] This matter is to be removed to the Court in its entirety for hearing and determination of the substantive proceeding without prior investigation by the Authority.

### **Costs**

[8] The issue of costs will no doubt be dealt with at an appropriate time by the Court.

Vicki Campbell  
Member of Employment Relations Authority

---

<sup>1</sup> Section 178(2)(c).