

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
ER AUTHORITY CHRISTCHURCH OFFICE**

BETWEEN Christchurch City Council

AND The Southern Local Government Officers Union Inc

REPRESENTATIVES Susan Hornsby-Geluk, counsel for the Council
Peter Lawson, advocate for the Union

MEMBER OF AUTHORITY Paul Montgomery

TELECONFERENCE 5 July 2006

DATE OF DETERMINATION 6 July 2006

DETERMINATION OF THE AUTHORITY

Background

[1] On 26 June 2006, the applicant Union (the Union) lodged an application seeking compliance orders against the respondent Council (the Council) and against the fourteen elected council members that they comply with the requirements of section 4 Employment Relations Act 2000 and clauses 35 and 37 of the collective agreement. The Union sought orders that the respondents consult with affected employees and the Union before making any decisions to contract out financial transactions.

[2] The Union also sought penalties from each respondent in the event that the respondents made a decision prior to the Authority investigating the matter. The Union sought urgency as the Council was to vote on the issue at its meeting on Thursday 29 June 2006.

[3] Following a teleconference on 27 June 2006, the Union re-lodged the application citing only the Christchurch City Council as the respondent. The parties attended mediation on 4 July 2006 but were unable to resolve their differences.

The present application

[4] On Wednesday, 5 July 2006, counsel for the respondent lodged an application for removal of the matter in its entirety to the Employment Court. Later in the day Mr Lawson filed a statement in reply concurring with the respondent's submission and supporting the application to remove.

Discussion

[5] Ms Hornsby-Geluk has correctly identified the appropriate precedents for applications for removal under the Employment Relations Act 2000. The submission focuses initially on s 178 (2) (a). On this issue counsel points out that at the heart of the matter is the need for a complex analysis of the relationship between the Local Government Act 2002 and the Employment Relations Act 2000, and that such a legal question is properly in the domain of the Employment Court.

[6] Addressing the public interest issue, counsel submitted that the issues of law raised in the instant case will have implications not only for the present parties, but all union/employer and employees within local authorities within New Zealand. Counsel submits that the applicant is, in effect, seeking the rescinding of a decision made by the elected Council on 30 June 2006 which raises issues of independence of elected local authority members, issues in respect of the jurisdiction of the Employment Relations Authority in a remedy setting and the relationship with the Local Government Act 2002.

[7] Finally, counsel submits that in all the circumstances the Court should determine the matter on the ground that this particular dispute requires in depth examination of legal issues and the Court's more formal approach is the appropriate forum.

Determination

[8] I have studied the submission in support and spoken with the parties' representatives.

[9] I am satisfied that this is a case requiring the more formal, adversarial forum provided by the Employment Court.

[10] I order that this matter be removed to the Employment Court.

Costs

[11] Costs in relation to this application are reserved.

Paul Montgomery
Member of Employment Relations Authority