

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 130/07
5098453

BETWEEN THE FORMER CREW OF
MFV “ALEKSANDR
KSENOFONTOV”
Applicants

AND DV RYOPRODUKT LIMITED
Respondent

Member of Authority: James Crichton

Representatives: Peter Cranney, Counsel for Applicants
Peter Dawson, Counsel for Respondent

Consideration of Papers: 1 November 2007

Date of Determination: 5 November 2007

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] In documents filed in the Authority on 30 August 2007, the applicants (the former crew) seek a compliance order and a removal of the matter to the Employment Court. The compliance order relates to an earlier determination of the Authority dated 30 January 2007 wherein I made directions to the parties in respect of the computation of wages which I found remained outstanding and to be paid by the respondent (DVR) to the former crew.

[2] In effect, my 30 January determination disposed of the issue of principle and directed that the parties were to calculate the amount owing which the documents now filed in the Authority confirm they have done. However, the former crew allege that DVR has failed to pay the amount in question and the application for a compliance order comes about as a consequence of this alleged failure.

[3] The application for removal to the Employment Court comes about because my original decision of 30 January 2007 is under challenge to the Court but has not yet been heard. It is contended on behalf of the former crew that, pursuant to s.178(2)(c) and (d) of the Employment Relations Act 2000, it is convenient for the Court to be seized with all relevant matters.

[4] The effect of that statutory provision is to give the Authority a discretion to order the removal of a matter, or any part of it, to the Court where the Court already has proceedings before which are between the same parties and involve the same or similar issues, or where the Authority is of the view that the Court should determine the matter.

[5] The only other preliminary matter that I desire to record is the helpful intelligence that the parties are still negotiating with each other and that there is a prospect that the matter may be capable of being resolved by agreement without the further intervention of the Employment Court.

Determination

[6] This matter is, in effect, a joint application for removal with both parties consenting to the logic of the Court dealing with all of the matters between these parties, subject always to the parties' ability to try to resolve matters between themselves by agreement in advance of any Court fixture.

[7] As I indicated to the parties in the telephone conference organised by the Authority to discuss this issue and hear counsel on the applications before the Authority, the proposal that the whole matter be removed to the Court is transparently sensible and I exercise the Authority's discretion in making that order.

Order

[8] I order the whole of the matter comprised within the filing in the Authority on 30 August 2007 between these parties, removed to the Court for the Court to hear and determine it without the Authority investigating the matter.

James Crichton
Member of the Employment Relations Authority

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