

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

WA 92/08
5124247

BETWEEN NEW ZEALAND MEAT
 WORKERS AND RELATED
 TRADES UNION
 Applicant

AND TAYLOR PRESTON LTD
 Respondent

Member of Authority: G J Wood

Representatives: Peter Cranney for the Applicant
 Peter Chemis for the Respondent

Investigation Meeting: By consideration of papers received by 30 June 2008

Determination: 1 July 2008

DETERMINATION OF THE AUTHORITY

[1] The applicant union has applied to have an employment relationship problem over alleged unlawful discrimination and/or preference on the grounds of union membership by the respondent, Taylor Preston, removed to the Employment Court under s.178. It claims that important questions of law are likely to arise other than incidentally, that the Court already has before it proceedings which are between the same parties dealing with the same or similar or related issues, and in all the circumstances the matter should be removed to the Court (subsections 2a, c and d refer).

[2] For its part Taylor Preston consents to the matter being removed because the Court already has before it proceedings between them dealing with the same or similar or related issues.

[3] I have decided to determine the matter on the papers, before a statement in reply has been filed and the issue of mediation addressed, because it is clear that a statutory

criterion for removal has been met and once the matter is removed to the Court it can deal with matters such as mediation as effectively as the Authority.

[4] On 23 August 2007 I determined, with respect to a previous problem between the parties, that Taylor Preston had not acted unlawfully in relation to the union's members during unsuccessful negotiations for a new collective employment agreement. That matter is currently before the Court by way of challenge.

[5] According to the statement of problem for this matter, on 15 April 2008 Taylor Preston offered the union's members a wage increase but only if they signed a settlement agreement withdrawing from the legal action before the Court. This action is said to constitute discrimination or unlawful preference in its own right.

[6] Clearly this is a related issue to those that are already before the Court between these same parties. It therefore follows, as the parties have agreed, that grounds for removal under s.178(2)(c) have been met.

[7] There is always a residual discretion by which the Authority can determine not to remove an employment relationship problem even if a statutory criterion for removal is met. Given that the parties already have to deal with these earlier and linked issues of alleged unlawful discrimination and/or preference in the Court it is clearly more efficient that the Court deal with this latest matter as well. There are no other factors which would mitigate in favour of the Authority dealing with this latter employment relationship problem at first instance.

[8] I therefore order the removal of the employment relationship problem between the New Zealand Meat Workers and Related Trades Union and Taylor Preston Limited (recorded as 5124247) to the Employment Court for the Court to hear and determine it without the Authority investigating the matter.

G J Wood
Member of the Employment Relations Authority