

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

WA 206/09

File Number: 5291059

BETWEEN The New Zealand Public
 Service Association Inc
 Applicant

AND Ministry of Justice
 Respondent

Member of Authority: Denis Asher

Representatives: Peter Cranney for the applicant
 Alastair Sheriff for the respondent

Investigation Meeting On the papers, as agreed by the parties

Submissions Received By 21 December 2009

Determination: 21 December 2009

**DETERMINATION OF THE AUTHORITY: Application for Removal to
Employment Court**

Employment Relationship Problem

[1] By way of its application dated 17 December 2009, the applicant (the NZPSA) set out various problems including its application for removal to the Employment Court.

[2] As is briefly set out in the NZPSA's application, and in the context of past and possible future industrial action, at issue between the parties are breaches of bargaining obligations.

[3] Because of the urgency of the matter I convened a telephone conference call today during which counsel for the respondent (the Ministry), Mr Alastair Sheriff, confirmed his instructions, including his client's view that the only ground for removal was that set out at s. 178 (2) (a) of the Employment Relations Act 2000 (that an important question of law was likely to arise in the matter other than incidentally).

Applicants' Position

[4] Removal is sought pursuant to ss 178 (2) (a), (b) and (d) of the Act. Few if any reasons were provided.

Discussion and Findings

[5] Despite the lack of reasoning provided by the parties I am satisfied there are self-evident reasons why this matter should go on removal to the Employment Court. They are:

- I accept there are important questions of law including whether or when bargaining can be said to be at an end;
- that – because it is a collective dispute involving large numbers of court staff – the case is of such a nature and of such urgency that it is in the public interest that it be removed immediately to the court;
- the application for removal is advanced and supported by senior employment law practitioners; and
- For the reasons set out above, I am of the opinion that in all the circumstances the court should determine the matter.

Determination

[6] For the reasons set out above, and pursuant to s 178 (2) of the Act, I order the removal of this matter to the Employment Court.

Costs

[7] As requested, costs are reserved

Denis Asher

Member of the Employment Relations Authority