

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 210/09
5082994

BETWEEN FAYE LEOV
 Applicant

AND THE BOARD OF TRUSTEES
 OF RAI VALLEY SCHOOL
 Respondent

Member of Authority: Philip Cheyne

Representatives: Peter Churchman, Counsel for the Applicant
 Michael Hardy-Jones, Counsel for the Respondent

Application Received: 23 November 2009 from the Applicant

Determination: 4 December 2009

DETERMINATION OF THE AUTHORITY

[1] This determination deals with an application under s.178 of the Employment Relations Act 2000 for the removal of these proceedings to the Employment Court.

[2] In the usual way these proceedings were initiated and responded to and a phone conference was arranged to discuss how the Authority should progress the matter. During that conference I raised with both counsel the possibility that the proceedings should perhaps be removed to the Employment Court for the Court to hear and determine the matter without the Authority first investigating it. I explained my reasons for this view and counsel undertook to get instructions and revert to the Authority. The applicant then lodged the present application for the matter to be removed to the Employment Court. Although this is not a joint application, the respondent does consent.

[3] Pursuant to s.178(2)(d) of the Act I make an order removing the whole of the matter to the Employment Court for the Court to hear and determine the matter without the Authority investigating it.

[4] At least some of the issues raised by this matter were the subject of an investigation undertaken by a person who is a member of the Authority. I should make it clear that the investigation was not undertaken by him in his capacity as an Authority member but was pursuant to a separate and unrelated appointment. However there is the possibility that he may be called to give evidence in these proceedings. For that reason it is appropriate that these proceedings should not be investigated by the Authority but should be removed to the Court.

[5] I acknowledge the co-operation of counsel in resolving this point, and especially the applicant whose application this is.

Philip Cheyne
Member of the Employment Relations Authority