

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2012] NZERA Christchurch 147
5377597

BETWEEN TERTIARY EDUCATION
UNION (TEU)
Applicant

A N D VICE CHANCELLOR,
UNIVERSITY OF
CANTERBURY
Respondent

Member of Authority: M B Loftus

Representatives: Peter Cranney, Counsel for the Applicant
Helen Gilbert, Counsel for the Respondent

Investigation meeting: On the papers

Submissions Received 3 July 2012 from the Applicant
17 July 2012 from the Respondent

Date of Determination: 20 July 2012

DETERMINATION OF THE AUTHORITY

[1] On 11 June 2012 I issued a determination removing proceedings to the Employment Court.

[2] The application had been made by the respondent, Canterbury University, and related to a Statement of Problem dated 12 April 2012. It was not opposed by the applicant, the TEU.

[3] The Court, having seized the matter, has timetabled an exchange of documents and scheduled a hearing.

[4] Since then the TEU has revised its original claim with the result being, in its words, *broader*. There are now four causes of action.

[5] As a result, and given there was only one cause of action at the time of the initial removal, the TUE seeks removal of the other three. It does so on the grounds the Court now has before it proceedings between the same parties involving the same or similar and related issues.

[6] The University *consents*, but adds it is yet to file its Statement of Defence in the Court. As it about to do so, it asks it not be required to file a Statement in Reply in the Authority.

[7] As already said, the claim, as it stood at the time of the original determination, contained only one cause of action. That was removed and it was my understanding the matter had been moved in its entirety. The Court was to consider the entire claim.

[8] If wrong and the TEU has, by amending its Statement of Claim, introduced further causes of action not yet removed, I conclude, as requested, they should now be before the Court. I reach that conclusion for three reasons:

- a. The University concurs;
- b. The additional causes of action are contained in a Statement of Claim dated 27 June. To me that is a Court document further defining / refining a claim already removed as opposed to an amended Statement of Problem in the Authority; and
- c. If that conclusion is wrong, I note the Court has already addressed the undesirability of splitting proceedings and having parts there-of proceed before separate bodies (see *Hanlon v International Education Foundation (NZ) Inc* (unreported) 10 January 1995, Goddard CJ, WEC1/95). Wherever possible proceedings should be consolidated, especially where the issues are intrinsically interwoven as they are here. In the circumstances, and given the reasons for the original removal continue to apply irrespective of how the claim is couched, I consider it appropriate the Court deal with the matter in its entirety.

[9] The University's request it not be required to file a Statement in Reply is granted. The required content will be addressed in the Statement in Defence to be filed in the Court.

Conclusion

[10] The matter is, as the parties agree appropriate, removed in its entirety.

Costs

[11] Cost are reserved though I note for the parties benefit, and given costs can be revisited, a preliminary view that costs should, at least in respect to this application, lie where they fall.

M B Loftus
Member of the Employment Relations Authority