

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2019] NZERA 359

3006596

3012673

BETWEEN A LABOUR INSPECTOR
Applicant

AND SOUTHERN TAXIS LIMITED
First Respondent

AND MAUREEN GRANT
Second Respondent

AND RONALD GRANT
Third Respondent

Member of Authority: Andrew Dallas

Representatives: Jodi Ongley, counsel for the Applicant
Diccon Sim and Gerrad Brimble, counsel for the Respondents

Investigation Meeting: On the papers

Determination: 17 June 2019

THIRD DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The Authority has issued two determinations in respect of this matter.¹ Both are now under challenge to the Employment Court.²

¹ *A Labour Inspector v Southern Taxis Limited* [2018] NZERA Christchurch 104 and *A Labour Inspector v Southern Taxis Limited, Maureen Grant and Ronald Grant* [2019] NZERA 291

² EMPC 249/2018 and EMPC 187/2019

[2] At the conclusion of the second determination the Authority observed:

[48] The following issue is reserved:

- (a) Are Southern [Taxis Limited] and Ronald Grant and Maureen Grant liable for the imposition of penalties for the contraventions of the Act, Minimum Wage Act, Wages Protection Act and Holidays Act and if so, in what quantum.

[3] The issue of costs was also reserved pending resolution of all matters before the Authority.³

[4] In light of the most recent challenge, the Authority issued a Minute to the parties which stated, amongst other things:

...

[4] As there are now two challenges before the Court, the Authority is actively considering exercising its discretion under s 178(1) in reliance on ss 178(2)(c) and (d) of the Employment Relations Act 2000 to remove the remaining two matters before the Authority to the Court without further investigating them.

[5] Given the nature of the case, any subsequent determination of the Authority would likely be challenged to the Court – thereby, increasing the costs of, and further protracting, the litigation.

...

[5] The parties were asked for their respective views on the Authority's proposed course. Both parties were in agreeance with it. And, indeed, the parties indicated that in the absence of the Authority's Minute, they would have jointly made such an application themselves.

³ Above n 3 at para [50]

Removal of outstanding matters to the Court

[6] It is appropriate then to exercise my discretion under s 178(1) of the Employment Relations Act 2000 (the Act) upon grounds set out in ss 178(2)(c) and (d). For completeness, in arriving at this decision, I have considered the matters set out in paragraph [4] in light of the recent decision of the Court's in *Johnston v The Fletcher Construction Company Limited*.⁴ Consequently, I direct those matters referred to in paragraphs [2] and [3] above be removed in their entirety to the Court without being further investigated by the Authority.

Next steps

[7] The Authority will send a copy of this determination to the Court. The Registrar will contact the parties in due course.

Costs

[8] As a result of this determination, the parties are in the hands of the Court in relation to all matters of costs.

Andrew Dallas
Member of the Employment Relations Authority

⁴ [2017] NZEmpC 157