

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKAURAU ROHE**

[2024] NZERA 310  
3294199

BETWEEN	XI (ROBERT) CHEN Applicant
AND	BREAD OF LIFE CHRISTIAN CHURCH IN AUCKLAND First Respondent
AND	JULIA BUHAGIAR Second Respondent
AND	XIN (CONNIE) HUANG Third Respondent
AND	JIANAN (NANCY) ZHANG Fourth Respondent

Member of Authority:	Rachel Larmer
Representatives:	Simon Greening and Kylie Hudson, counsel for the Applicant Garry Pollak, counsel for the Respondent
Investigation:	On the papers
Information Received:	24 May 2024 from the Applicant 24 May from the Second, Third and Fourth Respondents
Date of Determination:	24 May 2024

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] The parties have asked the Authority to remove matter 3294179 to the Employment Court in the first instance under s 178(1) of the Employment Relations Act 2000 (the Act).

[2] The grounds for removal are those in s 178(2)(c) of the Act, namely that the Employment Court already has before it proceedings involving these parties that involve the same or substantially similar or related issues.

### **Background**

[3] The applicant, Xi (Robert) Chen, has lodged a second unjustified dismissal claim and interim reinstatement application under 3294179 with the Authority, because he was dismissed five days after the Authority permanently reinstated him to his role as Pastor of the Bread of Life Christian Church in Auckland.

[4] The second, third and fourth respondents are trustees of the first respondent. They oppose Mr Chen. Mr Chen is also a trustee of the first respondent, and he is supported by the two other trustees of the first respondent. These other two trustees believe Mr Chen was unjustifiably dismissed for the second time and they support his immediate reinstatement.

### **Authority's investigation**

[1] By agreement with the parties, the applicant's removal application involved an 'on the papers' investigation.

### **Issues**

[2] The following issues are to be determined:

- (a) Are there related proceedings before the Court between the same parties that involve the same, similar or related issues?
- (b) If that ground for removal is established, should the Authority exercise its discretion not to remove this matter to the Court?
- (c) What, if any, costs should be awarded?

### **Are there related proceedings before the Court between the same parties that involve the same, similar or related issues?**

[3] Section 178(2)(c) of the Act requires the Court to already have proceedings before it between the same parties and which involve the same or similar or related issues.

[4] Those grounds are met.

[5] The Employment Court has before it a challenge to the Authority's original interim reinstatement determination that related to Mr Chen's first dismissal as well as a challenge to jurisdiction involving an argument about the status of Mr Chen's relationship.<sup>1</sup>

[6] The Authority has been advised that a five day Employment Court hearing has been set down from 22 to 26 July 2024 to hear those challenges.

[7] The Employment Court also has a challenge to the Authority's substantive determination, which permanently reinstated Mr Chen on 5 April 2024.<sup>2</sup> Mr Chen was dismissed for the second time on 10 April 2024.

[8] The Authority understands the parties had a judicial conference with the Court about all of their issues earlier this week.

[9] The Employment Court currently has before it multiple challenges, the outcome of which will be material to Mr Chen's second unjustified dismissal claim and second interim reinstatement application. It is therefore preferable for the Employment Court to have all matters involving these parties before it, prior to the hearing of the as yet unresolved challenges.

**Should the Authority exercise its discretion against removal?**

[10] There are no factors that weigh against removal.

**Outcome**

[11] Matter 3294179 is to be removed to the Employment Court, so it can deal with this second interim reinstatement application and second unjustified dismissal claim in the first instance.

**Costs**

[12] Both parties sought removal, so costs should lie where they fall.

Rachel Larmer  
Member of the Employment Relations Authority

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<sup>1</sup> *Chen v Bread of Life Christian Church in Auckland* [2023] NZERA 298.

<sup>2</sup> *Chen v Bread of Life Christian Church in Auckland* [2024] NZERA 198.