



[3] The plaintiff is a corrections officer who has worked for the Department of Corrections (Corrections) from July 2013, having commenced employment at Northland Regional Correctional Facility (NRCF). He is a member of the Corrections Association of New Zealand (CANZ). At all material times, CANZ and he were parties to the CA, which contains particular clauses that the plaintiff says were breached between 4 May 2018 and 27 November 2018.

[4] The plaintiff says Corrections failed to take steps to ensure his safety, which was in breach of its duties including:

- (a) breach of cl 6.1.3 of the CA by failing to meet its obligations under the Health and Safety at Work Act 2015 and, in particular, the primary duty of care in s 36 to ensure, so far as reasonably practicable, the health and safety of its workers;
- (b) breach of cl 1.5.2 of the CA by failing to operate a personnel policy requiring safe working conditions;
- (c) breach of cl 6.1.4(i) of the CA by failing to provide and maintain a safe working environment;
- (d) breach of cl 6.1.4(ii) of the CA by failing to make sure the working arrangements were not hazardous;
- (e) breach of cl 6.1.4(vii) by failing to engage with its employees about the hazard and risks posed by prisoner A; and
- (f) breach of cl 6.1.4(iii) of the CA by failing to provide training and instructions for staff at NRCF dealing with prisoners with a history of violent behaviour and who present with a risk of violence towards staff.

[5] The plaintiff says these alleged breaches by Corrections, and its failure to acknowledge those breaches, remedy them or resolve his concerns, has caused him emotional distress.

[6] The plaintiff now applies to join CANZ as a second plaintiff. If successful, CANZ seeks a declaration of breach in relation to the same breaches claimed by the plaintiff,<sup>2</sup> and nominal damages in the particularised sum of \$50.00.

[7] The application is consented to by the defendant on the basis that the nominal damages have been particularised as \$50.00.

[8] The power to join a party to a proceeding is conferred by s 221 of the Employment Relations Act 2000. An order may be made joining any party to the proceeding if doing so enables the Court to more effectually dispose of any matter before it according to the substantial merits and equities of the case. The threshold is relatively low.

[9] Given the role the CA will play in this proceeding, allowing the union to participate as a party falls squarely within s 221. It is appropriate to join CANZ as second plaintiff.

## **Outcome**

[10] The application is granted.

[11] A timetable was agreed to by the parties. Applying that timetable, I make the following orders:

- (a) The plaintiffs will file an amended statement of claim within **seven days** of the date of this judgment.
- (b) The defendant will file and serve an amended statement of defence within **seven days** of the receipt of the statement of claim.

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<sup>2</sup> See above at [4](a)–(f).

[12] Costs are reserved.

Kathryn Beck  
Judge

Judgment signed at 11.45 am on 7 May 2024