

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
WELLINGTON**

**I TE KŌTI TAKE MAHI O AOTEAROA
TE WHANGANUI-A-TARA**

**[2025] NZEmpC 54
EMPC 78/2025**

IN THE MATTER OF proceedings removed in full from the
Employment Relations Authority

AND IN THE MATTER OF an application for urgency

AND IN THE MATTER OF an application for leave

BETWEEN THE SECRETARY FOR EDUCATION
Plaintiff

AND NEW ZEALAND POST PRIMARY
TEACHERS' ASSOCIATION TE
WEHENGARUA
Defendant

Hearing: 20 March 2025
(Heard via telephone)

Appearances: S Hornsby-Geluk, counsel for the plaintiff
T Kennedy, counsel for the defendant

Judgment: 21 March 2025

INTERLOCUTORY JUDGMENT OF JUDGE J C HOLDEN

[1] In its determination dated 24 February 2025, the Employment Relations Authority ordered that two matters be removed to the Employment Court.¹

[2] The first matter was an application by the Secretary for Education seeking resolution of a dispute as to the proper construction of cl 10.4.1(c) of the

¹ *Secretary for Education v New Zealand Post Primary Teachers' Association Te Wehengarua* [2025] NZERA 110.

Secondary Teachers' Collective Agreement – 2022 to 2025 (STCA) and s 26(3) of the Employment Relations Act 2000. The Authority identified that, broadly speaking, the dispute concerns whether the New Zealand Post Primary Teachers' Association Te Wehengarua is required to make arrangements with a school board (as the employer) as may be necessary to ensure that a school remains "open for instruction" (as opposed to what it describes as "supervision") during paid union meetings.

[3] The second matter was an application by the PPTA to have the Authority resolve issues relating to s 26 of the Act and cl 10.4.1 of the STCA. The Authority said that, in summary, the PPTA seeks a declaration in relation to the provisions relating to paid union meetings, contending that the relevant arrangements are between the PPTA and the relevant school boards (and not the Secretary).

[4] The Secretary has subsequently applied for leave in this Court to commence proceedings pursuant to s 29 of the Act. It does so without prejudice to the Secretary's primary position that it has standing in relation to all matters relating to these proceedings.

[5] The Secretary also applied for urgency for the proceedings, covering all matters presently before the Court.

[6] In an affidavit filed in support of the application for urgency, the General Manager of Payroll, Employment Relations, and Pay Equity at the Ministry of Education noted that collective bargaining for a new collective agreement can be initiated from 3 May 2025 and that the Ministry expected that the PPTA would hold paid union meetings either ahead of or during collective bargaining for the new collective agreement.

Urgency granted

[7] The Court has a broad discretion to accord urgency to a proceeding. Clause 21 of sch 3 of the Act provides that if the Court is satisfied that it is necessary and just to do so, it may order that any proceedings be heard by the Court as soon as practicable.

[8] I heard from counsel on the application for urgency during a telephone hearing on 20 March 2025. Having heard from counsel, I determined that, given the upcoming bargaining and likelihood that there will be paid union meetings for that purpose, the proceedings should be dealt with on an urgent basis, that is, they should be heard by the Court as soon as practicable.

[9] Whether the Secretary is able to take these proceedings is the first issue to be dealt with. That covers the question of standing, as raised by the PPTA in its proceedings and, if required, the application for leave to commence proceedings filed by the Secretary. Once that matter has been dealt with, the remainder of the substantive removed proceedings will need to be timetabled to a hearing as soon as practicable.

Directions made

[10] At this stage the following directions are made:

- (a) The PPTA is to file and serve its statement of claim in relation to its removed proceedings by **4pm on 25 March 2025**.
- (b) The PPTA is to file and serve its notice of opposition to the Secretary's application for leave to commence proceedings, and its submissions on the first issue by **4pm on 11 April 2025**.
- (c) The Secretary is to file and serve her submissions on the first issue by **4pm on 23 April 2025**.
- (d) The PPTA is to file and serve its submissions in reply by **4pm on 30 April 2025**.
- (e) There will be a hearing on the first issue as soon as practicable thereafter.

[11] Both parties also will need to file and serve their statement of defence to the other party's statement of claim following the normal timeframes. It is noted that, in

filing its statement of defence, the PPTA does so without prejudice to its position in respect of standing.

[12] Costs are reserved.

J C Holden
Judge

Signed at 11.15 am on Friday 21 March 2025