

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 156/09
5108309

BETWEEN

DIANE KNIGHT
First Applicant

BRIAN CRAWFORD
Second Applicant

AND

BOARD OF TRUSTEES,
TOKOMAIRO HIGH
SCHOOL
Respondent

Member of Authority: Paul Montgomery

Representatives: John Farrow, Counsel for First Applicant
Brian Crawford, Second Applicant
Craig Smith, Counsel for Respondent

Investigation Meeting: On the papers

Determination: 15 September 2009

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The second applicant lodged his statement of problem jointly with the first applicant on 19 May 2008. The matter proceeded to mediation but remained unresolved. The Authority convened a teleconference on 9 February 2009 and indicated it would be available to undertake an investigation in either of the weeks beginning 11 May or 18 May 2009. Counsel for the parties accepted those tentative dates. However, both were supportive of ongoing negotiations to resolve the difficulties.

[2] On 21 April 2009 Mr Farrow wrote to the Authority and copied his letter to Mr Smith. He indicated mediation and negotiation was continuing, progress was

being made and in the circumstances it was sensible to vacate the tentative fixture dates.

[3] Mr Farrow undertook to advise the Authority after mediation discussions had either achieved an agreement or had been exhausted. Should the latter be the case, Mr Farrow advised he would seek further directions on an investigation meeting fixture.

[4] On 27 August 2009 counsel for the respondent lodged and served an application to strike out Mr Crawford's claim. The grounds cited by Mr Smith are that on or about 9 July 2008 Mr Crawford advised the Otago Daily Times he was not pursuing his grievance against the respondent, as well as breaching mediation confidentiality and without prejudice correspondence between the parties' solicitors. In an email to the Senior Support Officer on 5 February 2009, Mr Crawford advised the Authority he intended to continue his personal grievance claim, that he had applied for legal aid and was hoping to engage a solicitor the following week. The Authority has heard nothing from the second applicant since that email in which Mr Crawford also declined to take part in the Authority's teleconference on 9 February. The Authority has not heard from any solicitor acting on Mr Crawford's behalf in respect of representation or an application for legal aid.

[5] On receipt of the respondent's applicant, the Authority wrote to Mr Crawford on 27 August 2009 enclosing the copy of the application. The letter asked Mr Crawford whether he consented to or opposed the application to remove him from the proceedings, and if opposed, to set out his reasons for his opposition. A response was clearly required to be received within 14 days of the date of the letter.

[6] A track and trace report on the couriered letter confirms it was delivered at 7.23am on 28 August 2009. The Authority has had no response to this letter within the designated time limit.

[7] The Authority is advised that the respondent is unwilling to compromise its efforts to resolve the issues with the first applicant until it has some certainty as to Mr Crawford's position. Mr Smith submits progressing mediation settlement discussions with Mrs Knight cannot be achieved until Mr Crawford's position is clarified.

Determination

[8] Mr Crawford has been provided with the opportunity to oppose the respondent's application to have his name, and therefore his claim, struck out from these proceedings. Neither he nor any authorised agent has opposed the application nor given any reason for the delay which the Authority would have considered.

[9] I order that part of file 5108309 pertaining to Brian Crawford and his claims be removed from the file. The Authority will cease its investigation in respect of Mr Crawford.

Paul Montgomery
Member of the Employment Relations Authority