

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI-A-TARA ROHE**

[2025] NZERA 803
3351180

BETWEEN NEW ZEALAND POST
PRIMARY TEACHERS'
ASSOCIATION
INCOPORATED
Applicant

AND TE AHO O TE KURA
POUNAMU BOARD OF
TRUSTEES
First Respondent

AND SECRETARY FOR
EDUCATION
Second Respondent

Member of Authority: Geoff O'Sullivan

Representatives: Guido Ballara & Saadi Radcliffe, counsel for the
Applicant
Megan Richards & Ruvin Pattiaratchi, counsel for the
First Respondent
Bronwyn Heenan & Alana Harrison, counsel for the
Second Respondent

Investigation Meeting: 19 August 2025 at Wellington

Submissions and other up to and including 10 December 2025.
information received

Determination: 11 December 2025

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] New Zealand Post Primary Teachers' Association Incorporated ("PPTA") and the First Respondent Te Aho o Te Kura Pounamu Board of Trustees ("Te Kura") are in dispute over the interpretation, application, and operation of clause 11.2 of the Secondary Teachers Collective Agreement (STCA). PPTA says that on an objective reading of the clause, the specified lunch break of one hour must be included as part of the 40 normal hours of work specified in the clause.

[2] Te Kura, supported by the Secretary for Education who has been joined in the proceedings, says any lunch break is excluded and so the normal hours of work specified are 40 hours a week or 45 including the lunch break. Accordingly, they say that fulltime normal hours of work at Te Kura (during term time) are 40 hours per week Monday to Friday, not including a daily unpaid one-hour lunch break.

The Authority's investigation

[3] For the Authority's investigation written statements were filed by Adele Twogood, Frances Renton, and Delphi Dixon on behalf of the Applicant. Courtenay Parkes, Anil Singh, and Amy Stewart filed evidence on behalf of the First Respondent. Tanya Duncan gave evidence on behalf of the Second Respondent. All evidence was given on oath or affirmation and the parties also lodged written submissions.

[4] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

The issues

[5] As stated above, at issue between the parties is the interpretation of clause 11.2 of the STCA. Clause 11.2 provides as follows:

11.2 Hours of Work

11.2.1 In order to carry out their duties in terms of this Agreement it may be necessary for teachers to work for more than 40 hours per week. The normal

hours of work for teachers, however, should, as far as practicable, not exceed 40 hours per week Monday to Friday.

11.2.2 Teachers are normally required to be present on the site for at least 35 of their working hours per week. These hours may be worked between 7am and 6pm daily from Monday to Friday inclusive, with a required core attendance time of 9am to 3pm. A lunch break of one hour is to be taken generally between the hours of 12 noon and 2pm (unless agreed otherwise) provided that the timing of the lunch break does not interfere with operational activities.

Evidence and discussion

Frances Renton

[6] Ms Renton is the Deputy General Secretary Policy at the PPTA. She has held that role since November 2023. After giving evidence as to how the difference in understanding arose, she stated that lunch breaks form part of work and were therefore part of the 40-hour period. She indicated that the issue she had wasn't so much with lunch being paid but that lunch time should be included in the 40 hour work week. She acknowledged if it was, then in essence the lunch break was paid for. She agreed she could not point to a document that explicitly said lunches were paid for. She also accepted that the only reference to the lunch break was in clause 11.2.2 of the Agreement.

Adele Twogood

[7] Ms Twogood is a Deputy General Secretary (Membership) of PPTA. She has worked for PPTA since 2015 and prior to that she was a secondary school teacher. She confirmed the parties were in dispute as to the interpretation of clauses 11.1 and 11.2 of the STCA. She also noted that the approach taken by Te Kura affected resourcing in the sense of undermining appropriate student teacher ratios. She stated that if Te Kura and the Secretary for Education were correct, then the working hours of its teachers would be extended and accordingly Te Kura could effectively avoid employing additional staff to address ratio issues. Her evidence was also that it was wrong for Te Kura to categorise the lunch periods as an unpaid break when teachers were paid a salary not an hourly rate. She commented that during a lunch break, teachers are regularly not free of responsibilities.

[8] Ms Twogood also pointed out that Te Kura, in a collective agreement with NZEI, the union representing other Te Kura teachers, had different wording including a statement that the lunch break was in addition to the normal hours of work.

Delphi Dixon

[9] Ms Dixon gave evidence that she was employed by Te Kura as a secondary teacher and had been since August 2021. She was also a member of PPTA. She said that her initial job interview was for a part time 0.6 fulltime equivalent fixed term job three days a week for eight hours a day. She says she was told she could make up her eight hours by working 7am to 3pm with an hour for lunch in the middle.

[10] When she commenced her employment, she says that Te Kura asked her to be fulltime and again she says hours were discussed and she agreed that she would work between 7am and 3pm each day with a lunch hour in the middle to make up her 40-hour working week. In other words, Ms Dixon's evidence was that the one-hour lunch break counted towards her 40-hour working week.

[11] In respect of the practicalities, Ms Dixon said that in practice lunch did not mean that work stopped. She says she, and other teachers, were constantly interrupted during lunch breaks. Most meetings were held over lunch and were often called working lunches. Everyone answered their phones, emails, and attended meetings at lunch time.

The Respondents' evidence

Amy Stewart

[12] Ms Stewart has worked at Te Kura since January 2019. Her current position is Regional Manager – Southern. This requires her to manage Te Kura's southern region which covers most of the South Island. Although not involved in direct line management or people leadership, her evidence is that she is involved indirectly through the direct line managers who report to her. Since the start of the second term in 2025, she was seconded to the HR team as a Project Manager. In her evidence she notes the provision of clause 11.2.2 insofar as it entitles a teacher to a one hour lunch break typically taken between 12pm and 2pm provided it does not disrupt operational

activities. She also notes that staff are required to be present on site for at least 35 of the working hours per week. She confirmed that she had received a letter from Ms Twogood on 21 July 2023 expressing concern that a newsletter she had prepared was inconsistent with clause 11.2 of the STCA. She said whilst she responded on 26 July 2023 acknowledging the error, that was not an acknowledgement that the normal hours of work included a paid one hour lunch break. Whilst Ms Stewart acknowledged the wording used in the newsletter was not consistent with the STCA, she said it nonetheless reflected her understanding of the interpretation of clause 11.2 of the STCA and what she understood to be current practice.

[13] Ms Stewart gave evidence that from the time she started her employment at Te Kura she had understood that fulltime teachers were required to work 40 hours per week plus an unpaid daily lunch break. She states that for the most part this aligned with what she had observed in practice whilst acknowledging that her observations were only limited to Te Kura's southern region.

[14] Ms Stewart also acknowledged that it was possible that some teachers had received inconsistent messaging about their hours of work. She also stated that whilst some teachers may choose to engage in work activities or attend meetings during their lunch break, that was optional and not required by Te Kura.

Courtenay Parkes

[15] Mr Parkes is the Human Resources Manager for Te Kura. He gave evidence explaining that the STCA applies to all secondary teachers in New Zealand, including at Te Kura. He noted however, part 11 of the STCA set out special provisions that only applied to Te Kura.

[16] Mr Parkes reiterated his view that teachers at Te Kura were not required to undertake any work duties during their lunch break and were not instructed or expected to do so by Te Kura.

Anil Singh

[17] Mr Singh is the Regional Manager, for the Central South Region. In 2021 he spent six weeks covering the Northern Region on secondment. He gave evidence that

since he started at Te Kura he had always understood that the standard 40 hour work week did not include a lunch break. The basis of his understanding was what he had been told by his manager when he started his employment. He says he always communicated this understanding to new staff in the Central South Region during their job interviews.

Tanya Duncan

[18] Ms Duncan is employed as a Chief Advisor in the Ministry of Education's Employment Relations team. She has been in the role since 2020. She gave evidence that she had been on the bargaining team for the STCA in 2007 and in the latter part of the 2022 bargaining. She advised that the relevant Collective Agreement in these proceedings is the STCA 2022-2025.

[19] Ms Duncan gave evidence regarding the history of clause 11.2 in the STCA. She said even under the 1989-1990 Secondary Teachers Award, there was always a provision that set out the hours that a teacher working at Te Kura was required to be on site and following that there has been a provision for the normal hours of work to be 40 hours per week.

[20] She confirmed the requirement in the 1993-1994 STCEC that teachers be on site between 9am and 3pm. She said that for a number of reasons Te Kura decided there needed to be clarity and a level of certainty about the earliest/latest time teachers would be on site at work. She said teachers had complete flexibility over the timing of their lunch break and many would go offsite during their lunch break which added to the uncertainty of when staff would be available to meet operational needs or when they would be on their lunch break. Her evidence was that for this reason the reference to the lunch break was added to the hours of work clause and the amendments were intended to balance certainty of hours of work and Te Kura's operational needs with teachers being able to exercise their entitlements with reasonable flexibility.

[21] Ms Duncan's evidence was that over the years the Ministry's interpretation of clause 11.2 has not changed, namely that the normal hours of work for secondary teachers at Te Kura is 40 hours per week and does not include a one hour lunch break.

Ms Duncan advised Mr Parkes of the Ministry's interpretation, based on her understanding of the clause.

[22] Ms Duncan said that in her experience lunch breaks were unpaid by default, in other words, if lunch breaks were to be paid that would be explicitly stated in the agreement. She said that if the intention was to provide teachers with a paid lunch break, then the clause would not have needed to explicitly require the teachers to take their lunch break at a time that does not interfere with operational activities. Ms Duncan was of the view, based on 37 years in the education sector, that it was an industry standard in the sector that hours of work required were not inclusive of a paid lunch break.

Interpreting the STCA

[23] The proper approach to the interpretation of employment agreements is an objective one with the aim being to ascertain the meaning the written agreement would convey to a reasonable person having all the background knowledge reasonably available to the parties at the time of the agreement. The objective meaning is taken to be that which the parties intended. The context provided by the agreement as a whole and any relevant background information informs meaning and considering context is a necessary step in the interpretative process. The focus is on interpreting the agreement as a whole, rather than particular words, but the text remains centrally important.¹ The Employment Court has summarised the correct approach to interpreting collective agreements as being²:

Contract interpretation principles apply to collective agreements.

[20] Although collective agreements are not contracts in the conventional sense, the central principles of interpretation relating to contracts also apply to them.

[21] The proper approach is an objective one, with the aim of ascertaining the meaning that the document would convey to a reasonable person, having all the background knowledge that would reasonably have been available to the parties in the situation in which they were at the time the agreement was concluded. This objective meaning is taken to be what the parties intended. While there is no conceptual limit on what may be regarded as "background", it has to be background that a reasonable person would regard as relevant. Accordingly, the context provided by the agreement as a whole and any relevant background informs meaning.

¹ *Firm PI 1 Limited v Zurich Australasian Insurance Limited* [2014] NZSC 147 @ [60]–[63]

² *Secretary for Education v Public Service Association – Te Pukenga Here Tikanga Mahi Inc* [2024] NZEmpC248

[22] Further, while context is a necessary element of the interpretive process, and the focus is on interpreting the document rather than particular words, the text remains centrally important. If the language at issue, construed in the context of the collective agreement as a whole, has an ordinary and natural meaning, that will be a powerful, albeit not conclusive, indicator of what the parties meant. But the wider context may point to some interpretation other than the most obvious one, and may also assist in determining the meaning intended in cases of ambiguity or uncertainty.

[23] Collective agreements have unique features that distinguish them from commercial contracts. These include their relational nature, representing the progression of an employment relationship on an ongoing basis over a lengthy period, that fact that the collective agreement is a creature of statute, and the reality that, generally, collective agreements are not drafted, negotiated, or settled by practicing lawyers. Another important feature is that collective agreements are negotiated between the employer and the relevant Union(s), but then bind Union members even where they did not vote to ratify the terms of the collective agreement and/or were not employed at the time the collective agreement was entered into. [citations omitted]

The parties do not agree on the meaning of the words in the Collective

[24] PPTA says that on an ordinary and natural meaning of clause 11.2 of the STCA construed in the context of the documents as a whole, a specified lunch break is included as part of the normal working day and as a result part of the normal working week.

[25] Te Kura and the Secretary for Education view such an interpretation as effectively reducing the working week for teachers to 35 hours of actual work because it treats the daily lunch break as paid time to meet the 40 hour requirement. They say this interpretation is inconsistent with both the wording and the intent of clause 11.2 which, they say, clearly contemplates a full 40 hour working week exclusive of the unpaid lunch break.

Analysis

[26] Both parties acknowledge that teachers receive a salary not wages. Accordingly in terms of the dispute it makes no difference to pay whether the lunch break is paid or not. The point in contention is whether the time taken for lunch is included as part of a normal working day and/or normal working week. This is important because it effects how many teachers Te Kura considers it needs to employ. On the Respondents' interpretation fewer teachers are required given each teacher would normally be required to work five more hours per week.

[27] The history of clause 11.2 has not been particularly helpful. This is because until more recent times the parties say neither was aware the other had a different view as to what the clause meant. The Authority's role in this case is to interpret the STCA's objective meaning in order to determine what the parties intended at the time it was entered into. Emphasis must be placed on interpreting clause 11.2.1 and 11.2.2 and how it would work. It is the words of the clauses properly understood that indicate its objective meaning.

[28] Clause 11.2.1 appears limiting in nature to the extent whilst it provides that it may be necessary sometimes for teachers to work more than 40 hours a week, the normal hours should, as far as practicable, not exceed 40 hours per week. It provides:

“In order to carry out their duties in terms of this Agreement it may be necessary for teachers to work for more than 40 hours per week. The normal hours of work for teachers, however, should as far as practicable not exceed 40 hours per week Monday to Friday.”

[29] Both clause 11.2.1 and clause 11.2.2 are under the heading of “Hours of Work”.

[30] Clause 11.2.2 requires at least 35 of a teacher's working hours per week are worked between 7am and 6pm daily from Monday to Friday inclusive. Teachers are required to be at school between 9am and 3pm. Accordingly, on a plain reading of the clause, the core attendance time of 9am to 3pm appears to describe work hours. In other words, the clause provides that a teacher may work their hours between 7am and 6pm. However, there is no discretion between 9am and 3pm. A teacher must be at school. It seems to me, therefore, difficult to argue that the time between 9am and 3pm should be treated as anything other than working hours. Clause 11.2 is headed “Hours of work”. Clause 11.2.2 requires teachers to be **present on site for at least 35 of their working hours** [emphasis is mine] per week, with a required core attendance time of 9am to 3pm. Accordingly, where a lunch break is taken, the plain meaning of the clause is that the lunch break is generally taken during working hours.

[31] Clause 11.2.2 goes on to provide that a lunch break of one hour is to be taken generally between the hours of 12 noon and 2pm. The lunch break must be taken at that time unless both parties agree otherwise and unless the timing of the lunch break does not interfere with operational activities.

[32] The Respondents submit that clause 11.2 clearly contemplates a full 40 hour working week exclusive of an unpaid lunch break. It says this because it says the PPTA's interpretation effectively reduces the working week to 35 hours of actual work. However, whilst the STCA provides for a teacher to be present on site for at least 35 of their working hours per week, it also provides that a teacher's normal hours of work should, as far as practicable, not exceed 40 hours per week although there is provision that they may well do so. The normal meaning of clauses 11.2.1 and 11.2.2 seems to define any lunch break taken between 12 noon and 2pm as part of working hours.

Conclusion

[33] I agree with the position adopted by PPTA, namely on the ordinary reading of clause 11.2.2 a lunch break of one hour if it is taken between the hours of 12 noon and 2pm forms part of a teacher's working hours under the clause. I found nothing in the relevant background or in reading the Agreement which detracts from this interpretation.

Costs

[34] As this matter involves a dispute between the parties as to the interpretation of a particular provision of the Collective Employment Agreement, costs lie where they fall.

Geoff O'Sullivan
Member of the Employment Relations Authority