

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 176
3428565

BETWEEN JULIA STEENSON
Applicant

A N D MARGARET TUKERANGI,
TRACY DAVIS, TRISYA
HEMANA, DEBRA BREWER,
GLEN WILCOX, MIHI BLAIR
JOE PIHEMA, TE KURATAIAHO
AND DAME NAIDA GLAVISH
AS TRUSTEES OF NGĀ
MAUNGA WHAKAHII O
KAIPARA DEVELOPMENT
TRUST
Respondents

Member of Authority: Nicola Craig

Representatives: Stephen Langton, counsel for the applicant
Matt McGoldrick, counsel for the respondents

Investigation Meeting: On the papers

Submissions Received: 17 and 24 December 2025 for the applicant
17 and 23 December 2025 for the respondents

Determination: 25 March 2026

PRELIMINARY DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Ngāti Whātua ō Kaipara is a hapū located in the southern Kaipara Harbour area, north of Tamāki Makaurau, Auckland. It is part of the Ngāti Whātua iwi. The hapū's post treaty settlement governance entity is Ngā Maunga Whakahii o Kaipara Development Trust (the Trust).

[2] Julia Steenson is a member and beneficiary of Ngāti Whātua ō Kaipara. She is also employed as General Counsel and Director of Transformation of the Trust.

[3] The parties agree there was a period of dysfunction amongst trustees, although not identifying the exact same period. A High Court judgment was issued in late 2024.¹

[4] Ms Steenson comes to the Authority asserting that the Trust has acted unjustifiably to her disadvantage in a number of ways and breached her employment agreement. The disadvantages include that her mana and dignity were undermined, that she was bullied and as a result of the Trust's actions became too unwell to work. Consequently she seeks compensation as well as general and special damages.

[5] The Trust, via a statement in reply from the majority of trustees at lodgement time lodged, denies its actions were unjustified and/or caused disadvantage to Ms Steenson. It also denies any breach of express or implied terms of Ms Steenson's employment agreement.

[6] Ms Steenson now applies for her whole matter to be removed to the Employment Court. The application relies on s 178(2)(a) and (d) of the Employment Relations Act 2000 (the Act). The Trust opposes removal.

[7] The parties agreed that the removal application could be dealt with on the papers. Submissions were received from the parties.

[8] This determination does not record everything received from the parties but states findings and expresses conclusions on issues necessary to dispose of the removal issue.²

Submissions on behalf of Ms Steenson

[9] Submissions argue that there are questions of law arising from Ms Steenson's claimed loss of mana suffered from the various unjustified actions of the Trust:

- (a) whether "loss of mana" is a compensable claim pursuant to s 123(1)(c) of the Act; and

¹ *Porter & Ors v Trustees of Ngā Maunga Whakahii o Kaipara Development Trust* [2024] NZHC 3497.

² Employment Relations Act 2000 (the Act), s 174E.

- (b) if so, what approach should the Employment Institutions take when making an assessment of an award of compensation for that loss.

[10] The loss of mana is said to be a separate and compensable claim requiring an assessment of tikanga and Ms Steenson's mana in determining the quantum. Her deep whakapapa to at least three marae of the five the Trust represents will need to be considered. Her mana is also linked to the statutory purpose of the Trust. A principled tikanga-based consideration is required, as was discussed by the Supreme Court in *Peter Ellis v R*.³

[11] Further argument on Ms Steenson's behalf regarding why there are important questions of law are set out below.

Submissions on behalf of the Trust

[12] The Trust argues that Ms Steenson's real argument is that it did not observe tikanga in its treatment of her, and treated her in a mana-diminishing way, which she says establishes her grievances. It says that whether its actions towards Ms Steenson establish personal grievances is a question of fact, not a question of law.

[13] The Trust points to "will say" comments in her submissions as an indication of the evidence she will provide, rather than legal submissions which will be made regarding compensation for loss of mana under s 123(1)(c)(i) of the Act. The questions of law proposed are seen by the Trust as an attempt to construct an important question of law where one quite clearly does not exist.

[14] Further, it sees Ms Steenson's submissions as appearing to suggest that the Authority is more likely than the Court to "lack cultural awareness, proficiency and competence, and or consistency". The Trust submits there is no coherent basis for this submission.

[15] In addition the Trust views the Authority's investigative remit and ability to adopt a more flexible procedure, as better suited to the factual exercise of assessing whether mana has been lost due to an unjustified action, and doing so in a culturally responsive and competent manner.⁴

³ *Ellis v R* [2022] NZSC 114.

⁴ The Act, ss 157 and 160.

[16] In the Trust's view there are many cases dating back to 2002 with *Good Health Wanganui v Burberry* through to *Pact Group v Robinson* in 2023 where the Court has taken mana into account.⁵

Is there an important question of law – s 178(2)(a)?

[17] Guidance on the predecessor to s 178(2)(a) of the Act was provided by Chief Judge Goddard in *Hanlon v International Educational Foundation (NZ) Inc*:

It goes without saying that every question of law that needs to be resolved in the course of deciding a case is important in the sense that the fate of the case may depend upon the way in which the question is resolved. That is not an important one for the purposes of [s 178]. On the other hand, a question of law will obviously be important if its resolution can affect large numbers of employers or employees or both, or if the consequences of the answer to the question are of major significance to employment law in general. Most questions of law that could be described as important will be far less momentous. ... Importance, at any rate of a question of law, cannot exist in isolation. ... The importance of a question of law is a relative matter. Its importance has to be measured in relation to the case in which it arises. A question of law arising in a matter will be important if it is decisive of the case or some important aspect of it or strongly influential in bringing about a decision of it or a material part of it.⁶

[18] Questions of law need not be complex, tricky or novel to be important.⁷ To meet the test under s 178(2)(a) the issue must arise other than incidentally, so that the outcome will turn on the answer.⁸

[19] For Ms Steenson the questions of law identified as important because:

- (a) they concern the interpretation and application of s 123(1)(c) of the Act, and the role of tikanga (including Ms Steenson's mana), including when the Authority or Court exercises its discretion to award compensation under that section; and
- (b) While the Supreme Court in *Ellis v R* has determined that tikanga may apply in the exercise of judicial discretions and that the relationship

⁵ *Good Health Wanganui v Burberry* [2002] 1 ERNZ 668 at [62] and *Pact Group v Robinson* [2023] NZEmpC 173.

⁶ *Hanlon v International Educational Foundation (NZ) Inc* [1995] 1 ERNZ 1 at 7.

⁷ *Johnston v Fletcher Construction Co Ltd* [2017] NZEmpC 157 at [22].

⁸ *Tourism Holdings Ltd v Labour Inspector of the Ministry of Business, Innovation and Employment* [2018] NZEmpC 95 at [22].

between it and the common law will evolve over time, depending on the circumstances of each case, the Employment Court has not (as yet) considered the application of tikanga (and mana) to remedies under the Act; and

- (c) How the role of tikanga is considered and applied in this case is likely to have wider application than the present case, and the Employment Court's guidance is therefore important (and essential) to the conduct of such claims.

[20] Submissions for Ms Steenson argue that cases where loss of mana has been taken into account in an award of remedies do not consider loss of mana as a standalone head of loss that can be claimed under s 123(1)(c) – *Moke v Ruakura Hauora o Tainui Trust*, *De Souza v Māori Women's Welfare League Inc (Te Ropu Wahine Māori Toko I Te Ora)* and *Whaanga v Ngāti Rehua Ngātiwai Ki Aotea Trust*.⁹ There is also a suggestion that the total discussion on mana in those cases was modest.

[21] The important questions are argued to arise other than incidentally, as the answer/s will, in addition to having wider application, determine the outcome of Ms Steenson's issue of compensation.

[22] The submissions suggest that loss of mana could be seen as a standalone head of loss that can be claimed under s 123(1)(c) of the Act separate from a claim of "humiliation, loss of dignity and injury to feelings of the employee" in s 123(1)(c)(i).

[23] The idea of compensation-worthy elements not within the two specifically identified elements in s 123(1)(c) does not seem particularly inventive. The two examples in sub-paragraphs (i) and (ii) are clearly identified as inclusions, leaving scope of other examples to be considered. The Authority has on occasion awarded compensation for matters which do not necessarily seem neatly captured by sub-paragraphs (i) and (ii), focusing instead on the broad descriptor of "compensation" in paragraph (c) of s 123(1).

[24] It is hard to deny that Ms Steenson's whakapapa to marae within the Trust group could well impact on the effect of the Trust's actions on her. The impact of employers'

⁹ *Moke v Ruakura Hauora o Tainui Trust* [2025] NZERA 48, *De Souza v Māori Women's Welfare League Inc (Te Ropu Wahine Māori Toko I Te Ora)* [2024] NZERA 647 and *Whaanga v Ngāti Rehua Ngātiwai Ki Aotea Trust* [2024] NZERA 593.

actions on important facets of employees' identities and lives are often considered in the Authority's assessment of the compensation awarded to them, once a grievance is established.

[25] Without wishing to downplay the great significance of tikanga and mana, I am not persuaded that the concept of compensation under s 123(1)(c) including compensation for loss of mana is one which warrants removal to the Court as an important question of law. The Authority can properly consider such a concept.

Should the Court determine in all the circumstances – s 178(2)(d)?

[26] Given the nature of the questions and their novelty, Ms Steenson argues the Authority should exercise its discretion to remove the matter in any event.

[27] However, it is not evident why the Authority's investigative and flexible approach should be seen as less suited to dealing with the matters which need to be examined here, than the Court's more formal, procedure-focused and adversarial context.

[28] Speaking against removal are the usual considerations of:

- (a) the presumption that the Authority will consider employment relationship problems first;
- (b) the existence of disputed facts which may be best determined by the Authority; and
- (c) the loss of an appeal right if the matter is first heard in the Court.

Conclusion on removal

[29] I am not satisfied that the grounds in s 178(2)(a) or (d) of the Act are made out. In conclusion this employment relationship problem should remain with the Authority.

Removal of trustee

[30] Dame Naida Gavish was named as one of the trustees responding to Ms Steenson's application. She lodged her own statement in reply separate to that of the other trustees.

[31] Subsequently Dame Naida provided information regarding her cessation as a trustee and seeking to be removed as a party to this proceeding. The Authority sought the view of other parties regarding her removal. No view was received on behalf of Ms Steenson. The remaining trustees through their representative expressed the view that it was appropriate for Dame Naida to be removed, by analogy to Rule 4.23 of the High Court Rules 2016.

[32] The Authority has discretion under s 221(a) of the Act to strike out parties. I strike out Dame Naida as a party to this proceeding.

[33] Dame Naida may still be required as a witness in the investigation of this matter.

Costs and next steps

[34] Costs are reserved.

[35] The Authority will be in contact with the parties shortly to arrange a case management conference to progress this matter.

Nicola Craig
Member of the Employment Relations Authority