

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 396
3440764

BETWEEN THE CHIEF EXECUTIVE OF
ORANGA TAMARIKI –
MINISTRY FOR CHILDREN
Applicant

AND DAHLEA REISIMA
Respondent

Member of Authority: Nicola Craig

Representatives: Hamish Kynaston, Louise Robertson and Josephine
Ripley, counsel for the applicant
Allan Halse, advocate for the respondent

Investigation Meeting: On the papers

Submissions and Further Information Received: 30 January, 24 March and 24 April 2026 for the
applicant
2 February, 10 March and 16 April 2026 for the
respondent

Determination: 22 June 2026

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The Chief Executive of Oranga Tamariki – Ministry for Children (Oranga Tamariki) seeks removal to the Employment Court of an Authority application in which she is the respondent regarding personal grievances brought by Dahlea Reisima. This is in file 3427904.

[2] The application is made primarily on the grounds of there being proceedings between the same parties which involve the same or similar or related issues – s 178(2)(c) of the Employment Relations Act 2000 (the Act). Oranga Tamariki also relies on s 178(2)(d).

[3] Ms Reisima opposes removal, considering the matter currently with the Authority should remain here.

The Authority's process

[4] The Authority proposed that this removal application be considered on the papers following a timetable for submissions. The parties were agreeable.

[5] When Ms Reisima's representative raised a point about the Protected Disclosures (Protection of Whistleblowers) Act 2022, the Authority indicated that any submissions regarding non-publication could be made as part of the submissions on removal. A possible grievance regarding retaliation in terms of Oranga Tamariki's application is not before the Authority.¹

[6] Submissions on removal were received from both parties. No application was made for a non-publication order and enquiries from the Authority did not result in one. A deadline was set for any application with an indication the determination would be issued today. Nothing was received so I proceeded without a non-publication order.

[7] The substantive allegations in file 3427904 have yet to be investigated by the Authority.

[8] This determination does not record everything received from the parties but states findings, expresses conclusions on issues necessary to dispose of the matter and specifies orders made as a result.²

¹ Employment Relations Act 2000 (the Act), s 103(1)(k). No amended statement of problem has been lodged in file 3427904.

² The Act, s 174E.

The grounds for removal

[9] Removal to the Court may be granted if the Authority considers that any or all of the grounds in s 178(2) of the Act are satisfied. Of significance here is para (c) where:

The Court already has before it proceedings which are between the same parties and which involve the same or similar or related issues.

[10] Oranga Tamariki also relied on para (d):

The Authority is of the opinion that in all the circumstances the court should determine the matter.

Earlier proceedings

[11] Some background is needed regarding the other proceedings.

[12] Ms Reisima and Oranga Tamariki were involved in an earlier Authority proceeding which led to the issuing of a determination in 2024.³

[13] The Authority upheld one of Ms Reisima's unjustified disadvantage grievances and dismissed the rest.

[14] Ms Reisima challenged the determination, identifying this was a non-de novo challenge. The Court sought and received an amended statement of problem – challenging the dismissal of grievances and the remedy for the grievance upheld. A directions conference was held in April 2026.

[15] It is this Court proceeding on which Oranga Tamariki relies regarding s 178(2)(b) of the Act.

Summary of submissions for Oranga Tamariki

[16] Oranga Tamariki relies on Employment Court decisions indicating that proceedings of this nature “should be dealt with expeditiously in one venue and at one time”, with it being a “rare circumstance” for the Authority to decline removal where

³ *Reisima v The Chief Executive of Oranga Tamariki* [2024] NZERA 222, file 3203959.

the Court is already seized of proceedings involving the same parties, usually by way of challenge to an earlier Authority determination.⁴

[17] Further, what is needed is a more “holistic consideration of the relevant issues” rather than an issue-by-issue analysis.⁵ The issues do not need to be identical, with a connection on subject matter or fact being sufficient.⁶

[18] Oranga Tamariki identifies the overlap between the matter with the Authority and the matter with the Court as – same parties, same ongoing employment relationship and same underlying allegations of inappropriate conduct by the management team at the youth justice residence Ms Reisima previously worked at, predetermination and threats to job security.

[19] Further, the subject matter of the protected disclosure to multiple recipients, covered by the current statement of problem, overlaps significantly with the issues investigated and determined already by the Authority.

[20] In terms of s 178(2)(d), Oranga Tamariki sees Ms Reisima, from documents with the current statement of problem, along with her challenge of all aspects of the Authority’s 2024 determination, as having firm views. It considers there is at least reasonable prospect of her challenging to the Court another Authority determination in which she may be wholly or partially unsuccessful.

[21] Given the number of people named in the current statement of problem an investigation meeting of several days is anticipated.

Summary of submissions for Ms Reisima

[22] Ms Reisima does not assess the proceedings as involving the same or similar or related matters, in terms of the s 178(2)(c) test. The only similarity is seen as being the parties.

⁴ *Flight Attendants and Related Services (NZ) Association Inc v Air New Zealand* [2013] NZEmpC 125 at [42] and *Sheath v The Selwyn Foundation* [2015] NZEmpC 226 at [11].

⁵ *Randwick Meat Co Ltd v Burns* [2015] NZEmpC 188 at [27].

⁶ At [27] and at n 4.

[23] The events before the Court relate to a completely different set of events to those now before the Authority, involving different events, different time frames and different Oranga Tamariki staff.

[24] The focus of the matter currently with the Court is bullying and retaliation by the management team at the youth justice residence whereas the current Authority matter relates to protected disclosure matters and return to work plans.

[25] The primary witnesses anticipated for the challenge hearing are unlikely to be required for the matter with the Authority.

[26] The Authority is an informal and cost-effective inquisitorial body and Ms Reisima should not be required to bear the additional cost of a more formal process.⁷ Parliament intended the Authority as an accessible forum for parties.

[27] Removal would create further work for an Employment Court operating under increased workloads.

[28] The Authority should be reluctant to remove matters which do not involve important questions of law or, those of such a nature and urgency making removal in the public interest.⁸

[29] Removal would deny Ms Reisima the opportunity to achieve a mediated settlement through an Authority directive or right to challenge from an Authority determination to the Court.

Proceedings in the employment institutions

[30] Considering the s 178(2)(a) ground, the parties in the two proceedings are the same and the ongoing employment relationship is the same. The more challenging point to examine is the connectedness of the issues.

[31] The matter with the Court focuses on a chain of grievances from an earlier time period than the more recent chain of grievances focused on in the Authority's current matter. In some circumstances unrelated chains of events would certainly not warrant the matters being heard together by way of removal.

⁷ *Dollar King v Jun* [2020] NZEmpC 91.

⁸ The Act, s 178(2)(a) and (b).

[32] I accept that the current statement of problem covers allegations regarding senior national office managers under the Protected Disclosures (Protection of Whistleblowers) Act. Such allegations were not the substance of the 2024 Authority determination.

[33] However, the current statement of problem describes more recent events as being informed by events covered in the Court matter. There are substantial references in the statement of problem seemingly purposefully tying together the first chain of grievances to the second chain:

- Conduct “over a number of years demonstrates a clear, systematic, and continuous pattern of unjustified disadvantage, retaliatory behaviour and a failure to follow lawful employment processes”.
- “A feature of both the previous and current grievances has been threats to” Ms Reisima’s “job security”.
- “Across both [chains of] grievances, disciplinary actions have appeared predetermined”.
- “The same managers who contributed to” Ms Reisima’s “earlier disadvantage remain in positions of authority ... Their continued involvement in matters affecting” her “created an environment where retaliation was predictable”.
- “...they represent a long-term, deliberate and systematic continuation of harmful conduct dating back more than a decade, with no meaningful change, accountability of intervention...”

[34] It appears the protected disclosure covers at least some of the same territory as issues in the Authority’s 2024 determination – allegations of theft, abuse and bullying by the residence’s management team. Some of the retaliatory conduct allegations also concern that team. The history of the return to work plan, which is commented on in the determination, is also the subject of issues in the current statement of problem.

[35] There is a strong argument of overlap in the evidence required in both matters.

[36] In terms of resources there is also a possible overlap. At least three witnesses who may or are likely to give evidence in the Court, having given evidence in the Authority, are also named in the current statement of problem. Although I accept the

suggestion that there is some speculation in who will be required, there does seem likely to be an overlap which will supports the matters being considered together.

[37] There are some factors to balance against this overlap. These include the usual right to a more informal and non-technical resolution in the Authority and the loss of a challenge right if the matter is first heard in the Court. Ms Reisima's submissions mention an additional cost of a Court process. However, she is already committed to a Court process.

[38] For Ms Reisima, the denial of the opportunity to achieve a mediated settlement through an Authority direction is also mentioned. But according to the current statement of problem the parties have already been to meditation, and the Court may also direct the parties to further mediation.⁹

All the circumstances

[39] Under s 178(2)(d) of the Act the Authority may order removal to the Court, if of the opinion that in all the circumstances the Court should determine a matter in the first instance.

[40] The themes which Ms Reisima's current statement of problem emphasises, could more readily be considered and assessed by one decision-making body examining the longer period of time and the implications of the first chain of events on the second chain.

Outcome

[41] The parties in the two proceedings are the same and the same employment relationship is involved. Although the issues are not all the same, there are, for Ms Reisima, continuing themes in her employer's conduct. Some of the events overlap. There are similar or related issues to be examined.

[42] Given that the Court is to hear the first chain of grievances, it is a more efficient use of judicial resources in this case for one institution to undertake one hearing to investigate all the alleged grievances and breaches and decide the issues, rather than

⁹ The Act, s 188(2).

two hearings occurring in different institutions. Similarly, it saves the parties and witnesses from preparation for and participation in two hearings.

[43] In conclusion there is a sound basis for removal to the Court under ss 178(2)(c) and (d) of the Act and insufficient reasons to justify the matter remaining in the Authority.

Orders

[44] The application for removal is granted – the proceedings in file 3427904 are to be removed to the Employment Court for it to hear and determine without consideration by the Authority.

Nicola Craig
Member of the Employment Relations Authority