

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

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2025] NZEmpC 221
EMPC 256/2024**

IN THE MATTER OF a challenge to a determination of the
 Employment Relations Authority

BETWEEN CHIEF EXECUTIVE OF THE
 DEPARTMENT OF CORRECTIONS
 Plaintiff

AND DUANE FARRELL
 First Defendant

AND CORRECTIONS ASSOCIATION OF NEW
 ZEALAND INCORPORATED
 Second Defendant

Hearing: On the papers

Appearances: JD Rooney and P Gyeltshen, counsel for plaintiff
 JM Roberts and B Perkins, counsel for defendants

Judgment: 13 October 2025

CONSENT JUDGMENT OF JUDGE KATHRYN BECK

[1] The parties have now reached a settlement on these proceedings and have sought a consent judgment from the Employment Court.

[2] The proceedings involve a challenge to findings made by the Authority in a determination.¹ The findings subject to challenge were:

¹ *Farrell v Chief Executive of the Department of Corrections* [2024] NZERA 331.

- (a) given the “broad nature” of the first defendant’s role as a senior corrections officer, the volunteer control and restraint instructing “fell within the ambit of the role”;²
- (b) when the role was replaced by another structure, the plaintiff was contractually obliged to consult with the second defendant (Corrections Association Of New Zealand Incorporated) and affected employees, including the first defendant;³
- (c) in changing the structure of the control and restraint training, the plaintiff failed to comply with the consultation obligations set out in the Department of Corrections Frontline Staff Collective Agreement 2017 – 2019;⁴
- (d) the first defendant suffered disadvantage by being denied the opportunity to raise matters with the plaintiff;⁵
- (e) the first defendant established a disadvantage grievance arising from the plaintiff’s failure to fairly and reasonably consult with the first defendant about changes to control and restraint training;⁶ and
- (f) the first defendant is entitled to consideration of reinstatement to the control and restraint trainee instructor role (or its replacement).⁷

(together, the Findings)

[3] The plaintiff firmly denies the Findings in the Authority's determination and filed a challenge de novo to the determination on that basis.

² At [126].

³ At [126].

⁴ At [127].

⁵ At [127].

⁶ At [145](vi).

⁷ At [143].

[4] The defendants firmly concur with the Authority's findings and have been defending the plaintiff's challenge.

[5] Following a judicial settlement conference, the parties have agreed to set aside the Findings by consent.

[6] They have filed a joint memorandum seeking to have certain terms of the resulting settlement be the subject of a consent judgment of the Employment Court.

[7] The Court makes the following orders, by consent:

- (a) The plaintiff's challenge is discontinued, with no issue as to costs.
- (b) Pursuant to section 183(2) of the Employment Relations Act 2000, the determinations of the Authority on this matter at paragraphs [126], [127], [128] and [145](vi), and [143] to the extent that paragraph refers to "reinstatement to the control and restraint trainee instructor role (or its replacement)" of the determination,⁸ are set aside and this judgment now stands in their place.
- (c) The parties have otherwise reached an agreement to settle these proceedings on terms that shall remain confidential to them.

Kathryn Beck
Judge

Judgment signed at 11 am on 13 October 2025

⁸ *Duane Farrell v Chief Executive of the Department of Corrections*, above n 1.