

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

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

**[2025] NZEmpC 254
EMPC 236/2025**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for leave to appear as intervener
BETWEEN	JOSH RARAVULA Plaintiff
AND	NORTHERN RESCUE HELICOPTER LIMITED Defendant

Hearing: On the papers

Appearances: S Baker and V Corbett, counsel for plaintiff
P Wicks KC and K Harkness, counsel for defendant
P Cranney, counsel for the New Zealand Council of Trade Unions
as applicant intervener

Judgment: 28 November 2025

**INTERLOCUTORY JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS
(Application for leave to appear as intervener)**

[1] The New Zealand Council of Trade Unions (Council of Trade Unions) has sought leave to intervene in these proceedings.

[2] The application arises in the context of a challenge to a determination of the Employment Relations Authority (the Authority), finding that the plaintiff had been disadvantaged by his employer in respect of a roster change. Aspects of the determination are challenged.

[3] It is alleged that the Authority failed to determine a discrimination grievance that the plaintiff had brought under s 103(1)(c) of the Employment Relations Act 2000; erred in declining to make findings as to whether discrimination had occurred; and failed to provide adequate relief by declining to consider reinstatement. The defendant submits that the Authority did not err in law and even if it did, the plaintiff did not establish that he had been discriminated against by the defendant by reason of family status. It is further said that reinstatement is not reasonable or practicable given health and safety risks.

[4] The defendant requested that I give consideration to directing that the challenge be heard by a full Court, essentially because the case requires consideration of a complex intersection between health and safety and anti-discrimination law. I subsequently directed that a full Court be convened to hear and determine the challenge. In doing so I observed that there are a limited number of cases involving claims of discrimination in this Court; that the intersection of discrimination grievances with health and safety obligations has not been the subject of any court authority, and was not dealt with in any detail by the Supreme Court in *McAlister v Air New Zealand Ltd*.¹

[5] Returning to the application for leave to intervene, such applications fall to be considered under cl 2(2) of sch 3 of the Act. The test is whether, in the opinion of the Court, the applicant is “justly entitled to be heard”. The test is broad and is determined having regard to the particular circumstances of the case.²

[6] As Ms Grey says in her affidavit filed in support of the application, the Council of Trade Unions is fundamentally concerned about issues of human rights as they relate to workers, including discrimination, and has an interest and perspective on the issues that will arise in these proceedings. The Union is a significant representative of organised labour and considers that its involvement in these proceedings may assist the Court. It seeks leave to appear on a limited basis and does not seek to engage in

¹ *McAlister v Air New Zealand Ltd* [2009] NZSC 78, [2010] 1 NZLR 153, [2009] ERNZ 410.

² *Zhou v Chief Executive of the Department of Labour* [2010] NZEmpC 162, [2010] ERNZ 400 at [3], [5], [7] and [14]; and *Matsuoka v LSG Sky Chefs New Zealand Ltd* [2011] NZEmpC 24 at [6]. See too *Leota v Parcel Express Ltd* [2019] NZEmpC 152 at [6]–[10], summarising some of the principles that apply.

any factual controversy between the parties or to call evidence. Rather, its proposed involvement is directed at filing written submissions, appearing at the hearing and (if granted leave to do so) addressing the Court.

[7] Neither party is opposed to the application and they are content to abide the decision of the Court.

[8] Having considered the application and material filed in support, I am satisfied that the applicant is justly entitled to be heard, and leave is granted accordingly.

[9] Leave is granted on the following basis:

- (a) The Registrar is to provide the Council of Trade Unions with a copy of all documents that have been filed to date. The Council of Trade Unions is to be included in all future communications with the Court.
- (b) All documents from now on are to be served on the Council of Trade Unions.
- (c) The Council of Trade Unions may file and serve written submissions no later than two days before the date set for hearing.
- (d) The Council of Trade Unions may appear by counsel and make oral submissions at the hearing. If the Council of Trade Unions wishes to call evidence, the Court's special leave to do so will be required. Any such application should be filed and served promptly.
- (e) The Council of Trade Unions may not apply for costs against any party.

[10] No issue of costs arises on this application.

Christina Inglis
Chief Judge

Judgment signed at 4.15 pm on 28 November 2025