

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 461
5425473

BETWEEN NGAWINI PURU
 Applicant

A N D ARONUI TECHNICAL
 TRAINING COUNCIL
 Respondent

Member of Authority: Rachel Larmer

Representatives: Paul McKendrick, Counsel for the Applicant
 Sean McAnally, Counsel for the Respondent

Investigation Meeting: On the papers

Date of Determination: 12 November 2014

DETERMINATION OF THE AUTHORITY

**A. Aronui Technical Training Council’s (Aronui’s) application to
 strike out part of Ms Puru’s affidavit evidence does not succeed.**

Employment relationship problem

[1] The substantive matter is being investigated by Member Campbell. The Authority issued a preliminary determination on 20 October 2014¹ which held that specified evidence was not admissible. That evidence was subsequently removed from the Authority’s file.

[2] Aronui has applied to the Authority for an order striking out specified paragraphs in the affidavit of Ngawini Toka Puru sworn on 14 October 2014. I note that paragraph 98, 99(b) and exhibit “S” have already been removed from Ms Puru’s affidavit as a result of the Authority’s preliminary determination.²

¹ [2014] NZERA Auckland 431.

² Supra.

[3] Aronui objects to paragraphs 63, 70, 75, 88(cc)(iv), 88(d)(iii) and 94 on the grounds they contain opinions. I do not accept that objection.

[4] Ms Puru expresses her opinions in these paragraphs about what happened to her and why. I consider it is appropriate for the Authority to have this evidence before it.

[5] Aronui can cross examine Ms Puru on her evidence. Aronui may also call witnesses to rebut Ms Puru's evidence. It can also highlight in its closing submission that the evidence reflects Ms Puru's opinions only.

[6] Aronui objects to paragraphs 86(d), 88(c)(iv) and 88(d)(iii) and 94 of Ms Puru's affidavit on the grounds they contain hearsay. Whilst that is correct the Authority has a wide discretion to consider evidence which is relevant to its investigation.

[7] I consider the matters referred to are relevant to the claims the Authority is investigating so I consider it appropriate for the hearsay evidence to be admitted. It will be up to the Authority to determine what if any weight should be given to it.

[8] It is open to Aronui to call direct evidence in respect of the hearsay evidence filed by Ms Puru. It can also cover the hearsay aspect of Ms Puru's evidence in its closing submissions.

Costs

[9] Costs are reserved to be dealt with at the conclusion of the substantive matter.

Rachel Larmer
Member of the Employment Relations Authority