



[3] Ms Wigmore says her illness prevented her from raising her grievance immediately following her resignation. In the period between March 2003 and November 2006, the applicant sought assistance from no fewer than eight solicitors and advocates and her current counsel urges the Authority to take into account these exceptional circumstances and also the absence of a plain language explanation for resolution of employment problems in the relevant employment agreement.

[4] The respondent's position is that the applicant's Union, the New Zealand Nurses Organisation contacted UCHC on or about 27 April 2004. It says the applicant and Ms Joy Coughlan met with the UCHC's then chair Anne-Marie Reynolds and Board Member Mr Andy Lea in mid 2004. It says that although the claim was well outside the 90 day period, it was prepared to consider the applicant's issues in an attempt to resolve the problem.

[5] Following that meeting the respondent then undertook an investigation into the claims and says that staff accused of various actions emphatically denied the incidents and that several of the alleged actions could not have occurred as staff said to be involved were on leave or not rostered at cited times. It emphatically denies the claims.

[6] Further however, the respondent says that it advised NZNO that while not consenting to the applicant raising her alleged grievance out of time it had –

*an open mind in respect of any additional medical reports and/or information relating to your member that you may have in your possession. It is prepared on a **without prejudice** basis to receive and to consider any of the additional reports that you have available. We do however advise that unless they are specially compelling and provide a clear causal nexus between your member's work environment and your member's medical condition, we would be unlikely to change our previously advised position.*

[7] The letter giving this advice closes *If you wish to avail yourself of this opportunity we request that you provide the reports to our client organisation by no later than Friday 1 May 2005. If the reports are not received by this time we will assume that you are not pursuing this matter any further.*

[8] The letter was written by the solicitor acting for UCHC at the time on 26 April 2005.

**The Issue**

[9] The issue is straightforward even if the factual matrix is considerably complex and distressing for the applicant. The issue is this, does the Authority or Court have the jurisdiction to grant leave in the present case?

**Discussion**

[10] Section 114(3) of the Act provides; *where the employer does not consent to the personal grievance being raised after the expiration of the 90 day period, the employee may apply to the Authority for leave to raise the personal grievance after the expiration of that period.* This section is however constrained by s.114 (6) which reads; *no action may be commenced in the Authority or the Court in relation to a personal grievance more than three years after the date on which the personal grievance was raised in accordance with this section.*

[11] On the evidence before the Authority the applicant first raised her grievance through her Union on or about 27 April 2004. No application has been made to the Authority either at that time or prior to the lodging of the current application on 29 April 2008.

[12] While sympathetic to the situation the applicant faces and in particular the frustration in securing representation to pursue her claim, the statute bars the Authority from any jurisdiction to allow an action to be commenced more than three years after the date on which the personal grievance was raised with the employer in accordance with this section of the Act.

**The determination**

[13] The application is dismissed on the grounds that the Authority is unable to consider the applicant's claim.

**Costs**

[14] There will be no order for costs.