

Recent reduced remedies rulings revealed

One of the most significant recent employment law reforms gave greater scope to reduce an employee's remedies where the employee has caused or contributed to the situation giving rise to a personal grievance. This article looks at some recent reductions in remedies.

Since 21 February 2026, section 124 of the Employment Relations Act 2000 has allowed remedies for a personal grievance to be reduced by up to 100% where the actions of the employee contributed towards the situation that gave rise to the personal grievance.

This means that in appropriate cases an employee may succeed in establishing an unjustifiable dismissal or disadvantage, yet receive no remedies at all.

Recent Employment Relations Authority decisions provide an early indication of how the new provision will be applied in practice. While each case turns on its own facts (and these cases were decided under the pre-amendment provisions), the emerging theme is that the Authority is prepared to take a robust approach where employee misconduct or other blameworthy conduct has contributed to the circumstances that led to the grievance.

100% reduction in remedies: a rare case?

In *Gorrett v Skibo* [2026] NZERA 241, the Authority found that the employee's dismissal was procedurally unfair. The employer had acted too quickly after receiving a complaint of sexual harassment and failed to provide the employee with basic procedural

protections, including advance notice of the allegations and a genuine opportunity to respond.

Ordinarily, those deficiencies would have resulted in the employee receiving compensation for injury to feelings and reimbursement of lost wages. The Authority assessed remedies at \$12,000 injury to feelings together with one week's lost wages. But because the employee had engaged in serious sexual harassment of a colleague, the Authority found Mr Gorrett's conduct was not only blameworthy but "wholly contributed" to the situation giving rise to the dismissal. The Authority described it as a "rare case" where awarding any remedy would not be consistent with acting in equity and good conscience.

Remedies were reduced by 100% to nil.

Contribution in a redundancy context

The Authority has also applied the amended provision in circumstances that involved a 'no fault' dismissal for redundancy.

In *Murgatroyd v Xero (NZ) Ltd* [2026] NZERA 305, the Authority found that a genuine redundancy process had occurred, but that the dismissal was procedurally unfair. The employee had raised concerns about her manager shortly before the redundancy selection process occurred, yet that manager continued to participate in the selection process. The manager also held undisclosed performance concerns about the employee, to which she had no opportunity to respond.

But Ms Murgatroyd contributed to the procedural deficiencies by remaining silent during the process. The Authority considered a reasonable person in her situation would have alerted the other decision-makers to her concerns. The Authority observed that the employee could not remain silent and allow the process to run its course and then complain about the outcome afterwards.

Recent reduced remedies rulings revealed (Continued)

Compensation for injury to feelings was reduced by 20% (from \$20,000 to \$16,000).

40% reduction for serious and blameworthy conduct

A further recent example can be found in *McDonald v Traffica Roding Services Ltd* [2026] NZERA 360.

The employee was summarily dismissed after a heated confrontation with the company director during which he made offensive comments with racial connotations. The Authority found the dismissal to be procedurally unjustifiable because no disciplinary process was followed and the employee was not given an opportunity to respond before being dismissed.

The Authority considered the employee's conduct to be serious and blameworthy. His actions in using explicit language with racial connotations contributed significantly to the circumstances giving rise to his grievance.

Remedies (both compensation for injury to feelings and lost wages) were reduced by 40%.

Takeaways for employers

These recent cases suggest that the Authority is prepared to make 'meaningful' reductions where employee conduct has contributed to the circumstances leading to a grievance. The decisions also show that contribution is not limited to misconduct cases and may arise wherever an employee's blameworthy actions or omissions have played a part in creating the problem.

Remedy reductions under the new section 124(2) "by up to 100%" wording *should* be greater than they have been in the past, but we will still need to wait and see as the backlog of cases filters through the Employment Relations Authority.

Want to know more?

If you have any questions about the recent Employment Relations Act amendments, please contact our specialist [Employment Team](#).