

IN THE WAITANGI TRIBUNAL

**Wai 2575
Wai 2894**

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND

IN THE MATTER

**of the Health Services and Outcomes
Kaupapa Inquiry (Wai 2575)**

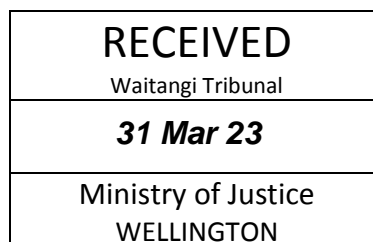
AND

IN THE MATTER

**of a claim by Malcolm Kingi on
behalf of Ngaai Tahu oo Moohaka
Waikare**

SUMMARY OF EVIDENCE OF MALCOLM JAMES KINGI

Dated 29 March 2023



TamakiLegal
Barristers & Solicitors

Cuilam Building, Level 2, 15 Osterley Way, Manukau 2104
PO Box 75 517, Manurewa, Auckland 2243
P. 09 263 5420

E. stephanie@tamakillegal.com / meerah@tamakillegal.com

Counsel Acting: S Roughton / S M Yogakumar / H J Fletcher

INTRODUCTION

1. My name is Malcolm James Kingi. I was born in 1961. I live in Greenmeadows, in Napier. I am Maaori, and whakapapa to Tahupootiki, the ancestor of Ngaai Tahu oo Moohaka Waikare. I bring this claim before the Waitangi Tribunal on behalf of myself and Ngaai Tahu oo Moohaka Waikare.

INJURIES

First Injury: 1996

2. On 21 October 1996, I suffered a knee injury when a ram ran into my left knee while I was shearing sheep. The injury was so painful that I was unable to walk for a month, and had to use crutches for the next six months.
3. I was initially prescribed the cheap painkiller panadene. Eventually this was not strong enough, so my GP put me on a stronger painkiller. My GP advised me that I should look for a new profession where I would be sitting down. Although I applied for many driving jobs over the years, potential employers would always lose interest in hiring me once they heard about my knee injury. I was never advised to train for administrative jobs.
4. I returned to work as a shearer in April 1997. My GP had told me that I could work as a shearer, but that there was a strong chance that my knee may play up again. After feeling knee pain a couple of months later, I had an Accident Compensation Corporation (“**ACC**”) consultation. I was prescribed anti-inflammatories and told that my knee was likely to continue to deteriorate for the rest of my life. Again, I tried looking for jobs in other professions, but no one would hire me because of my knee.
5. I tried to go back to shearing but my left knee gave out immediately. In September 1997, ACC covered a left knee arthroscopy and partial meniscectomy. I received a sickness benefit from ACC over the next 3 to 4 months. My only support on a day-to-day basis was from my partner, Mere. She was provided with no financial support. My GP never provided any information about the support she could receive as a sole caregiver.

6. In October 1997 I was deemed fit to return to work, but was informed that if I continued to shear, my knee injury would become a permanent disability. Because of this, I remained on the sickness benefit during this period.
7. Two months later, my right knee became strained, so I went back to ACC for a consultation in December 1997. I was deemed fit to return to work 6 days after my consultation. I made another appointment with the ACC doctor before returning to work, who ruled that my injury was only an 8% disability, not 10%. This meant that I was unable to get ACC coverage.

Between 1997 and 2002

8. Between 1997 and 2002, I continued to use anti-inflammatory pills for my pain, but suffered side effects including headaches and an upset stomach. My GP didn't provide me with another solution, so I stopped using the medication. My GP eventually offered different medication for severe pain.
9. I finally got a job at the local freezing works. I was there for 10 months, but the shifts lasted 12 hours and I was required to stand on hard concrete floors. My GP recommended that I find a job where I was able to sit down. I wasn't able to find a job, so I continued shearing on and off.

2002 – 2004 Injury

10. In September 2002, a charging ram hit my right knee. I had to wait six months for the swelling to subside for my surgery. During this time, I could not find any work. ACC covered the surgery on my right knee in March 2003.
11. My ACC medical certificate declared I was unable to return to work for 10 days post-surgery. An X-Ray four days later showed small loose bone fragments and that my bones had rubbed against each other and filed down too much. So, in June 2003, ACC approved an elective surgery to my right knee. I underwent an additional surgery in August 2003 to get rid of the loose bone fragments.
12. In mid-2004, I went back to work as Mere was only working 10 hours a week. I returned to shearing as there was no interest in hiring me with my injury. In

December 2004, I twisted my knee the wrong way while shearing. ACC covered the surgeries and bills. Finally, my GP deemed me permanently disabled on 29 October 2018.

ISSUES WITH ACC

13. In June 2004, I applied for a lump sum compensation from ACC. In August 2004, ACC conducted an assessment to determine my level of impairment. My impairment rating was 8%, but it was noted on the ACC assessment document that my impairment was permanent. Despite this, in September 2004, my application was declined on the basis that my condition hadn't changed in the last 12 months. This made no sense, as my pain had continued to increase due to the swelling and additional injuries caused by shearing from mid-2004 onwards.
14. In December 2004, ACC agreed to have different doctor carry out an assessment on my knee, but this required me to travel and stay in Wellington. Despite my requests, ACC did not offer to assist with the costs of travel or accommodation. Because I couldn't afford it, I couldn't have my knee reassessed. Additionally, I never received any advice from ACC on how to recover from my surgeries so that I could return to work. They didn't provide me with knowledge on services to help me with this recovery either.

ISSUES WITH THE DISABILITY SUPPORT SERVICES

15. Through Work and Income New Zealand ("**WINZ**"), I was able to have some of my medical expenses reduced. Once I began to get a little bit better, WINZ no longer covered GP visits. The benefit was minimal, providing only about \$5 or \$6 per week. This was not enough to cover all my bills.
16. I tried to request more funds, but was told that this was all I was eligible to receive. ACC funds covered surgeries, physiotherapy appointments and GP visits, but they did not include pharmacy prescription bills. Once the swelling reduced, ACC stopped funding me. No needs assessment was offered to me, and I was not referred to any needs assessment centres in Hawkes Bay.

RURAL MAAORI

17. I lived in Maraenui which is about 4 km from Napier. My surgeries and post operation consultations were either 20 km away at Royston Hospital or at a private hospital in Napier which was about 4 km away. Mere was unable to drive, so I had to drive myself for the surgeries. I was told I would need to pay for an ambulance, but I couldn't afford that, which is why I chose to crawl to and from my car and drive myself instead.

CAREGIVERS

18. Mere is my caregiver. She received no training, and although WINZ informed us that Mere is entitled to receive a caregiver's stipend of \$50 per day the stipend would be pointless after tax so we did not move forward with that.
19. As my caregiver, Mere did everything for me which required movement. When Mere was out working, I would have to stay in the same spot all day. Eventually, I was provided with crutches and walking sticks, but these were taken away from me once the swelling had reduced.

CONCLUSION

20. I did not want to cause a fuss or push back against the system. It never put me in a better position than I was before. I needed support, especially funding to cover the various bills and medical expenses. I also needed more help in finding jobs, or training for a new career. Mere has looked after me extremely well, but this came at a great cost.

Dated at **NAPIER** this 29 day of **March 2023**

M. Kingi

Malcolm Kingi