

served with notices of investigation meeting and that she has had a fair opportunity to attend and comment on the relevant material received by the Authority. It was on this basis that the meetings proceeded and that I now move to determine this matter.

[5] It follows that in such circumstances I have not had the benefit of hearing Mr Sorenson's side of the story.

The Claim

[6] Mr Gunson stated in his evidence to the Authority:

- (i) Ms Sorenson was employed for 20 hours per week on \$18 dollars per hour;
- (ii) She did not have a written employment agreement because, though offered, she refused to sign one;
- (iii) Ms Sorenson did not submit timesheets though she was requested to do so;
- (iv) Ms Sorenson set up All Sport's internet banking and was the only staff member who knew the password and login codes;
- (v) There was no regular oversight of Ms Sorenson's work and the annual audit did not occur until after she left the organisation;
- (vi) Ms Sorenson ran the payroll, which included processing her own pay, every Tuesday;
- (vii) Part of the payroll duty included calculating and deducting PAYE;
- (viii) Ms Sorenson did not advise All Sports of her IRD number; and
- (ix) Ms Sorenson was the only employee for whom PAYE was not deducted at source.

[7] Mr Gunson has provided a print out of payments made to a bank account held by someone Mr Gunson identified as Ms Sorenson's father Raymond Sorensen. Mr Gunson says these payments were made for Ms Sorenson's benefit and sums beyond her agreed wage were unauthorised. Supporting bank statements were provided. Mr Gunson told me has known Mr Sorensen for many years and spoke to him about the monies transferred into his account. Mr Gunson says Mr Sorensen told him the payments had been made for Ms Sorenson's benefit and that did not understand it was

unlawful to have wages paid into a bank account held by someone other than the employee. He said he did not know if the funds exceeded what was due and owing to Ms Sorenson under her employment agreement.

[8] I have taken evidence from Mr Sorensen. The parties have not taken the opportunity to put questions to him. Mr Sorensen confirmed the bank account in question is his, Ms Sorenson banked her earnings from All Sports into that account and she alone had access to those funds. He said he understood Ms Sorenson was not an employee of All Sports and the earnings Ms Sorenson received related to her role as a trustee. He provided a copy of All Sports trust deed which identifies Ms Sorenson as a trustee.

[9] The trust deed contemplates a trustee holding employment with the trust and receiving reasonable remuneration in return for services rendered¹. The two roles are not incompatible.

[10] I accept Ms Sorenson was an employee of All Sports and that the terms of her employment are as Mr Gunson has stated. I also accept that Ms Sorenson held a position of trust at All Sports and that as a consequence of that position she had access to All Sports funds.

[11] All Sports also claims reimbursement of an unauthorised payment of \$600 made to World Challenge, a paint ball business where Ms Sorenson's son's birthday party was held in December 2007. I accept this was an unauthorised payment and that Ms Sorenson made the payment for her own benefit using All Sports funds.

[12] I find Ms Sorenson was authorised to transfer funds totalling \$247 (net), by way of payment of wages due and owing to her under the terms of her employment agreement with All Sports, on a weekly basis to a nominated bank account. I find the nominated bank account was that to which the funds were transferred. I find that funds paid into that bank account exceeding \$247 (net) per week were unauthorised and that Ms Sorenson, as the only person with access to All Sports internet banking, transferred those funds. I am satisfied that those sums total \$10,932.14. I am satisfied

¹ Clause 11.1(b) All Sports Trust Deed 8 February 2007

that holiday pay totalling \$1711.20(net) is properly deducted from the total transferred funds.

[13] I find Ms Sorenson has breached her employment agreement by making unauthorised payments for her own benefit.

Determination

[14] **Deita Lee Sorenson is to reimburse All Sports Coaching Incorporated total sum of \$9220.94.**

Costs

[15] Deita Lee Sorenson is ordered to pay All Sports Coaching Incorporated \$70 to reimburse the cost of filing this application.

Marija Urlich

Member of the Employment Relations Authority