

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Trevor Boot (Applicant)
AND TNL Group Limited (Respondent)
REPRESENTATIVES Robert Thompson, Advocate for Applicant
Philip Butler, Advocate for Respondent
MEMBER OF AUTHORITY Paul Montgomery
INVESTIGATION MEETING 19 July 2005
DATE OF DETERMINATION 27 July 2005

CONSENT DETERMINATION OF THE AUTHORITY

[1] Following discussion between the parties, the Authority was advised that they had resolved the issues with the applicant withdrawing his action.

[2] By consent, the representative of each party has requested that the Authority record the following statement:

- (a) Mr Boot accepts that the company was entitled to discuss with him his plans for retirement and, as events turned out, to participate in negotiations over a possible retirement package. Mr Boot accepts that there was no discrimination involved in this exercise.
- (b) Mr Boot accepts that, while he did not anticipate that he would be made redundant, his dismissal was not unjustifiable in that:
 - the company consulted him on the proposed restructuring; and
 - the company had genuine commercial reasons for disestablishing his sales representative position and establishing a customer champion position; and
 - the company paid redundancy compensation and all other entitlements to the applicant.
- (c) Mr Boot accepts the company made a genuine effort to resolve the matter.
- (d) The parties agree to the Authority making the following statement:

The Authority recognises that employers and employees need to feel able to discuss retirement and any plans for retirement in mutual good faith, without the fear of claims of

discrimination on the ground of age arising. Such discussions are an aspect of planning for a company as are issues of extended leave, parental leave and the like.

[3] I commend the parties and their representatives for resolving their differences.

Paul Montgomery
Member of Employment Relations Authority