

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2012] NZERA Auckland 211
5318216

BETWEEN ANGELA HEMARA
 Applicant

AND DIRECTOR-GENERAL
 DEPARTMENT OF
 CONSERVATION
 Respondent

Member of Authority: R A Monaghan

Representatives: R Hemara, advocate for applicant
 S Woodhouse, counsel for respondent

Investigation Meeting: 18 April 2012

Determination: 20 June 2012

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Angela Hemara was formerly employed by the Director-General of the Department of Conservation (DOC) in a DOC facility in the Pureora forest.

[2] The employment relationship problem began in the aftermath of a domestic dispute in the Hemara household which involved allegations of violence. DOC ceased making work available to Mrs Hemara, whom it considered a casual employee, while it obtained information about the incident and assessed the need for safety measures at work since her husband Richard Hemara was also its employee.

[3] DOC says it never sought to dismiss Mrs Hemara, rather it tried to negotiate a new agreement which incorporated requirements intended to improve the supervision of Mrs Hemara and address safety concerns. Mrs Hemara refused to work to the terms and conditions contained in its proposal and refused to negotiate in good faith.

[4] The relevant exchanges occurred over period of several months, by the end of which DOC believed there had been a complete breakdown of trust and confidence and it could not work with Mrs Hemara any more. Mrs Hemara's letter of resignation was the formal pronouncement of the end of the relationship.

Preliminary matters

[5] The statement of problem cited both Mr and Mrs Hemara as applicants, and contained a number of broadly stated complaints of harassment and victimisation of Mr Hemara. Mr Hemara confirmed during a teleconference call with the Authority that the relevant claim was Mrs Hemara's, and said the statement of problem cited him as an applicant in his capacity as his wife's representative only. He did not otherwise intend to be cited as a party to this employment relationship problem and was not raising a problem of his own. I have proceeded on that basis.

[6] Secondly, the statement of problem raised several matters outside the jurisdiction of the Employment Relations Authority. Concerns within the Authority's jurisdiction were contained in a letter attached to the statement of problem, and included Mrs Hemara's:

- being 'taken off the job without any reason'; and
- being 'coerced into resigning'.

[7] I address these concerns as personal grievances on the grounds respectively that Mrs Hemara's employment was affected to her disadvantage by an unjustifiable action of her employer's, and she was constructively and unjustifiably dismissed.

Background

[8] DOC employed Mrs Hemara at a cleaner at its Pureora forest Field Centre. Her letter of appointment dated 14 January 2008 described the offer of employment as:

... casual employment with the Department at our Pureora Field Centre Office on an 'as and when required' basis. The nature of a casual agreement is where you may be called in to work for the Department at short notice.

[9] Later the letter said:

Your duties are outlined below and are as set out in the cleaning schedule for Pureora

*. cleaning of the Pureora Field Centre Office twice per week
. cleaning of Pureora Cabins as and when required*

[10] The second of these duties referred to the cleaning of cabin accommodation located at the centre, when the accommodation had been used.

[11] On the morning of 28 August 2009 a neighbour of the Hemara family contacted Raymond Scrimgeour, DOC's area manager, to advise there had been a violent incident at the Hemaras' home in the Pureora forest village. The police and an ambulance had been called. Mr Scrimgeour made further enquiries from which he became aware that Mrs Hemara had been taken into police custody and that Mr Hemara had been taken to hospital (although he returned home a few hours later).

[12] When Mr Scrimgeour spoke to the police he was advised that Mrs Hemara was not to associate with Mr Hemara. As both Mr and Mrs Hemara were DOC employees, that had implications for the workplace. Mr Scrimgeour was also advised that Mrs Hemara had gone to stay at an address in Te Kuiti.

[13] Because Mrs Hemara was considered a casual employee, Mr Scrimgeour decided no further work would be offered to her while he obtained information about the incident and any resulting proceeding in the District Court, and assessed the need for safety measures at work. Only limited information was available in the period immediately after the incident, and a further delay occurred when Mrs Hemara was admitted to hospital for unrelated reasons shortly afterwards.

[14] Mrs Hemara returned to work on her own initiative in late September. When Mr Scrimgeour became aware of the return a meeting with Mr and Mrs Hemara was arranged for 28 September 2009.

[15] Mr Scrimgeour advised at the meeting that other DOC employees, who also lived in the Pureora forest village, had contacted him to express concern about their safety as a result of the August incident. He tried to convey to Mrs Hemara that DOC

sought a better understanding of any safety issues, while Mrs Hemara's view was that the incident was part of her private life and was not DOC's concern. She refused to discuss it.

[16] Because DOC's concerns had not been addressed in a satisfactory way, Mr Scrimgeour explained to Mrs Hemara that she would not be called in to work although she was not being dismissed. He put it that way because he considered Mrs Hemara to be a casual employee, and that DOC was entitled to decide not to call her in to work until the safety concerns were resolved.

[17] Mrs Hemara sought and obtained assistance from her union, the Public Service Association (PSA). On or about 1 October a PSA organiser contacted DOC's human resources consultant, Jennie McCarron, to discuss issues which included whether Mrs Hemara was correctly classified as a casual employee. Ms McCarron and the organiser sought to confirm the casual/part time nature of Mrs Hemara's employment, and to work on the expectations DOC would have of Mrs Hemara in the performance of her duties when she returned to work.

[18] The organiser contacted Mrs Hemara later on 1 October. He confirmed to her that she was not being dismissed, and said that DOC was working on a letter setting out the expectations it had of her as an employee. Mrs Hemara said in evidence that she was waiting for that letter before she went back to work.

[19] I digress to say that on 1 October the organiser also commented on the fact that DOC was the Hemaras' landlord, and said DOC intended to issue a warning to the Hemaras in that capacity.¹ Shortly afterwards DOC issued a notice of the termination of the tenancy and required that the premises be vacated by 12 January 2010. The Hemaras challenged the notice in the Tenancy Tribunal. The adjudicator found the tenancy was not a service tenancy, and for other reasons declined to award the remedies sought.² Some of those remedies are now being sought in this Authority and Mrs Hemara sought to discuss them in detail, but they concerned the relationship of landlord and tenant and not the employment relationship. The Employment Relations Authority has no power to award remedies in respect of the relationship of

¹ DOC representatives denied saying this to the organiser.

² *Hemara v Department of Conservation* 17 March 2011, 11/00123/HN.

landlord and tenant, and in the context of the present problem the Authority can award only the remedies set out in the Employment Relations Act.

[20] Returning to the employment-related issues, the view that Mrs Hemara's employment was casual prevailed for the rest of 2009. Save for the occurrence of a meeting in November to which I will return, between October and December there were unsuccessful attempts variously to contact Mrs Hemara or to engage with her on the safety concerns and discuss arrangements for a return to work. As a result she was not called in to work during this period.

[21] Meanwhile the question of her casual status was also being addressed. Late in October Ms McCarron obtained and forwarded information about Mrs Hemara's hours of work which on its face showed enough variation to make it arguable that the true nature of the employment was casual. Wage records also showed Mrs Hemara was classified as a casual, and was paid at an hourly rate with an additional payment in respect of holiday pay. In an emailed message to DOC dated 23 November 2009 even the PSA organiser said he agreed the employment was casual, although he also said the employment agreement was breached when DOC did not provide Mrs Hemara with two days' work per week cleaning the office. He sought payment for the two days' work in each week Mrs Hemara had not worked.

[22] The Waikato Conservator for DOC, Greg Martin, replied to the PSA organiser saying further advice was being sought, and that the outcome of Mrs Hemara's appearances in the District Court was considered relevant to her return to work. Indeed adjournments in the District Court, DOC's lack of information about progress in the court, and Mrs Hemara's view that DOC was not entitled to intrude into her personal life did not assist attempts to assess any safety implications associated with Mrs Hemara's being called in to work.

[23] Another meeting went ahead on 25 November 2009. Its purpose was to discuss arrangements for a resumption of Mrs Hemara's employment, although the PSA organiser did not attend. Instead Mr and Mrs Hemara attended together with a counsellor.

[24] Mrs Hemara continued to resist any discussion about what she considered private matters. DOC was still unaware of progress with the proceeding in the District Court, although it was advised at the end of the meeting that a hearing was scheduled for January 2010³.

[25] Otherwise there was a discussion about a return to work. Mr Scrimgeour confirmed the view that Mrs Hemara was a casual employee. At the same time he informed Mrs Hemara that on her return to work she would be required to carry out her office cleaning duties on two days per week between the hours of 8 am and 4.30 pm. She would be supervised, and the work was to be carried out as directed. Previously Mrs Hemara had carried out the office cleaning work after ordinary working hours at times convenient to her, and without supervision.

[26] Mrs Hemara said she would think about the terms being proposed, and get back to Mr Scrimgeour.

[27] By 18 December there had been no response from Mrs Hemara.

[28] Also by that date Mr Scrimgeour had commenced a period of leave which ended on 12 February 2010. John Gaukrodger was the acting area manager in Mr Scrimgeour's absence. Mr Gaukrodger sought to meet with Mrs Hemara on 22 December, but Mrs Hemara did not attend. Subsequently Mr Gaukrodger attempted a less formal discussion but Mrs Hemara refused to participate.

[29] Eventually a meeting was held on 8 February 2010. The meeting and its outcome were summarised in a letter from Mr Gaukrodger dated 22 February 2010. The letter set out DOC's view of the discussion about Mrs Hemara's duties, and how they should be carried out. It said the work was to cover the office and the cabins, and was to be casual. A 'standard clean' incorporating a list of duties would be set, and duties to be undertaken on a less regular basis would also be identified. The programme manager would determine the need for work to be done, and would provide Mrs Hemara with notice of that need.

³ Mrs Hemara advised the Authority that the charges against her were eventually dropped.

[30] Mrs Hemara said in evidence that the letter was given to her and she was asked to sign it. She said she did not do so because she did not understand why her hours had changed, as she had previously cleaned at night. She also said that from May 2010 she tried to 'give it a go'. There is no suggestion that she conveyed that view to DOC.

[31] The letter also referred to the request for payment which the PSA organiser had made on 23 November. In apparent reliance on Mrs Hemara's casual status it declined the request by saying:

You have sought consideration for income lost through your non-notification to carry out cleaning services for a period of time commencing prior to the end of 2009. As advised, the intent of your original employment on a casual basis was in line with the work to be carried out which was not of a regular nature. I am not in a position to consider this request. You may wish to proceed with a claim on this matter either combined or separate to your interest in proceeding with the as and when required cleaning duties identified in this letter.

[32] Matters remained unresolved in March and April. Mrs Hemara did not report for work, and no contact was made to offer any work to her.

[33] On 20 April 2010 Mr Scrimgeour wrote to Mrs Hemara referring to his proposal of 25 November and the lack of response. The letter asked Mrs Hemara to be available for cleaning duties on 23 April from 1 pm – 3 pm. Mrs Hemara agreed to do the work, but she did not attend on that day or on the replacement date notified on her behalf. She carried out some work in May, June, and July but her attendance was erratic. Several arrangements were changed for domestic or health reasons, and Ms Hemara was considered unreliable. In addition her supervisor reported that she would not accept direction.

[34] Mr Scrimgeour and Mrs Hemara had a further discussion in June 2010, after Mrs Hemara found she had not been paid for work done in late May and early June. The difficulty from DOC's point of view was that Mrs Hemara had worked on hours other than hours that had been arranged with her. Following the discussion Mr Scrimgeour wrote a letter dated 20 June 2010 recording this, and saying:

In future any cleaning hours which you work must be completed between the hours of 9 am and 3 pm, for no more than 2 hours worked per day, on Tuesdays and Thursdays. It is inappropriate for your working arrangements to be varied by way of

messages from family members or left with various DOC staff. Any departure from these hours will only be by agreement with me.

[35] Mrs Hemara said in evidence she had had enough. She wrote a letter of resignation dated 17 July 2010, which DOC says it saw for the first time when it was attached to the statement of problem. There was no further record of any attempt on Mrs Hemara's part to obtain work, or on DOC's part to offer work, and no further work was done.

[36] By letter dated 19 August 2010 Mrs Hemara asserted that she had resigned on 20 July 2010, and raised a personal grievance for constructive dismissal. She said she wrote the 19 August letter when she found that DOC had not received the 17 July letter. The 19 August letter alleged DOC had engaged in a course of conduct aimed at coercing her resignation, and that DOC had breached its duties so that Mrs Hemara felt she could not remain in her job. In particular the letter: identified failures to pay Mrs Hemara between September 2009 and July 2010 when she was taken off her 'permanent work' with no explanation; referred to DOC's termination of the Hemaras' tenancy in January 2010; and referred to reactions in the Pureora forest village to the Hemaras' domestic dispute and its aftermath.

[37] DOC treated the letter as a resignation dated 19 August 2010.

Issues

[38] An underlying issue in this employment relationship problem is whether Mrs Hemara's employment was correctly classified as casual.

[39] The remaining issues are:

- (a) Did Mrs Hemara have a personal grievance on the ground that her employment was affected to her disadvantage by an unjustifiable act of her employer;
- (b) Was Mrs Hemara dismissed constructively in that:
 - (i) her resignation was coerced; or
 - (ii) her resignation was caused by DOC's breaches of duty in, -

- failing to pay her between September 2009 and July 2010 when she was taken off her ‘permanent work’ with no explanation;
 - terminating the Hemaras’ residential tenancy in January 2010; and
 - in its response to the reactions in the Pureora forest village to the Hemaras’ domestic dispute and its aftermath.
- (c) If Mrs Hemara was dismissed constructively, was the dismissal justified;
- (d) If Mrs Hemara’s employment was affected to her disadvantage by an unjustifiable act of her employer’s, or if she was dismissed unjustifiably, what remedies are available to her.

Was the employment casual

[40] A useful checklist for whether an employment relationship is casual is found in *Lee v Minor Developments Limited t/as Before 6 Childcare Centre*.⁴ Factors pointing to the existence of a casual employment relationship include:

- Engagement for short periods of time for specific purposes;
- A lack of regular work pattern or expectation of ongoing employment;
- Employment is dependant on the availability of work demands;
- No guarantee of work from one week to the next;
- Employment as and when needed;
- Lack of an obligation on the employer to offer employment or on the employee to accept any other engagement; and
- Engagement only for the specific term of each period of employment.

[41] The Employment Court has also said:

*[41] The strongest indicator of ongoing employment will be that the employer has an obligation to offer the employee further work which may become available and that the employee has an obligation to carry out that work. Other obligations may also indicate an ongoing employment relationship but, if there are truly no obligations to provide and perform work, they are unlikely to suffice.*⁵

⁴ EmpC Auckland, AC 52/08, 23 December 2008.

⁵ *Jinkinson v Oceana Gold (NZ) Limited [2009] ERNZ 225, 233*

[42] I place considerable weight on the provision in the letter of appointment which specified that Mrs Hemara was to clean the office twice a week. This was not an 'as and when required' provision of the kind usually indicative of a casual relationship, rather it described an ongoing weekly obligation.

[43] The obligation was observed in practice. Prior to the incident of August 2009, and with the exception of a period in the second and third quarters of 2008, Mrs Hemara carried out her office cleaning duties with some regularity. Although there was variation in the total number of hours worked on those duties each fortnight, she remained obliged to carry out the duties twice a week. Aside from the period in mid-2008 referred to, there was nothing to suggest she failed to do so. DOC was similarly obliged to continue to make the work available to her.

[44] The existence of ongoing mutual obligations means I find further that the remaining indicators of a casual relationship are not present in respect of the office cleaning duties, and any irregularity in the associated work pattern was a feature of the flexibility and lack of supervision exercised over Mrs Hemara's work rather than an indicator of casual employment.

[45] For these reasons I conclude that Mrs Hemara's employment status in respect of her office cleaning duties was that of permanent part time employee.

[46] No issue has been raised in respect of the cabin cleaning duties. I take them no further other than to note there was considerable variation in the number of hours worked on those duties - as is to be expected if the need for the duties corresponded with the occupancy of the accommodation - and the letter of engagement specified that those duties would be carried out on an 'as and when required' basis. There is enough in the information available to conclude that the indicators of a casual employment relationship were present in respect of those duties.

Was Mrs Hemara disadvantaged in her employment by an unjustifiable action

[47] In a letter dated 6 May 2010 Mrs Hemara's then-solicitor purported to raise a disadvantage grievance. The letter said Mrs Hemara had been advised on 28 September 2009 that she would not be called in for work, and that the withdrawal of

hours was a breach of the employment agreement and a breach of good faith. Secondly, an offer of DOC's, said to be of casual cleaning work for two hours per week, was a drastic reduction in the hours Ms Hemara had previously worked.

[48] I determine the second point now by saying there was no evidence DOC made such an offer, and the allegation is a mis-statement of the contents of Mr Scrimgeour's letter of 20 April. At the same time the parties' exchanges in June suggest that two hours' work per day on two days a week comprised the hours DOC considered sufficient for office cleaning duties.

[49] The remedy sought in the 6 May letter was: reinstatement of Mrs Hemara's previous hours of work; recognition of her status as a permanent employee; lost wages for the period in which she was 'banned from attending work'; and compensation for hurt and humiliation.

[50] DOC replied by letter dated 19 May saying a full response would be drafted when all information had been received, but no such response was produced. Ms McCarron said in evidence DOC's view was that the grievance had been raised out of time, although it sought to resolve the matter in mediation.

1. Whether grievance raised in time

[51] If DOC considered the disadvantage grievance was raised out of time, it has not raised that issue in the Authority and sought a determination of it. Although I accept there are difficulties with the statement of problem, there was sufficient in it to alert DOC to Mrs Hemara's pursuit of her concern.

[52] I will therefore determine the grievance.

2. Was there an unjustifiable action causing disadvantage

[53] My finding that Ms Hemara was a permanent part time employee for the purposes of her office cleaning duties means I do not agree with the stance DOC took in late 2009 and early 2010 to the effect that Mrs Hemara was not under suspension

but rather was not being called in to work. In that work she was normally required to perform was not made available to her, I find she was suspended.

[54] The suspension was unpaid. For that reason I find it was imposed in breach of the employment agreement and was unjustified. Mrs Hemara has a personal grievance on that ground.

Was there a dismissal

[55] On the facts as I have found them I do not accept Mrs Hemara's allegation that DOC engaged in a course of conduct designed to coerce her resignation.

[56] In determining whether there was a constructive dismissal I apply the often-cited test of whether a resignation amounts to a constructive dismissal is found in *Auckland Electric Power Board v Auckland Provincial District Local Authorities Offices IUOW*:⁶

... we consider that the first relevant question is whether the resignation has been caused by a breach of duty on the part of the employer ... If that question of causation is answered in the affirmative, the next question is whether the breach of duty by the employer was of sufficient seriousness to make it reasonably foreseeable by the employer that the employee would not be prepared to work under the conditions prevailing: in other words whether a substantial risk of resignation was reasonably foreseeable having regard to the seriousness of the breach.

[57] The questions associated with this test are whether:

- (i) there was a breach of duty;
- (ii) the breach caused the resignation; and
- (iii) if so, whether a substantial risk of resignation was reasonably foreseeable as a result.

1. Was there a breach of duty

[58] The first of the alleged breaches of duty concerned the failure to pay Mrs Hemara between September 2009 and July 2010, when she had been taken off her 'permanent work' with no explanation.

⁶ [1994] 2 NZLR 415, 419

[59] As a permanent part time employee Mrs Hemara was entitled to work in cleaning the office on two days a week. I have found that she was suspended without pay on 28 September, and that the suspension was imposed in breach of the employment agreement.

[60] The suspension ended in May 2010 when Mrs Hemara decided to 'give it a go' and resumed some of her duties. I accept that her attendance was unreliable and unpredictable.

[61] DOC's attempts to secure agreement to new terms and conditions of employment for the office cleaning duties continued. Previously, the office cleaning work was carried out on two days a week, although the precise hours and days of work were flexible. In practice the work was done after-hours. From November 2009 onwards DOC sought to change those terms by, -

- advising in November that Mrs Hemara would be required to carry out her duties during working hours as directed and under supervision;
- advising in February 2010 that both the office and the cabin cleaning work was casual, and was to be carried out as directed;
- advising in June 2010 that the hours of work were to be carried out during working hours on specified days.

[62] It is likely that the requirement notified in June 2010 in particular was a response to what was by then considered erratic and even unacceptable attendance on Mrs Hemara's part.

[63] Even so the difficulty for DOC is that it was proceeding on that basis that Mrs Hemara was a casual employee and it was entitled not to make work available to her, then sought to negotiate or impose the conditions on which it would resume making work available to her. That was a wrong approach because Mrs Hemara was a part time employee in respect of her office duties. DOC was obliged to continue to offer that work to her on her existing terms and conditions, and while it could attempt to negotiate changes Mrs Hemara was not obliged to agree to them. If DOC wished to address whether the employment relationship could continue under the existing terms and conditions, it should have followed an appropriate procedure.

[64] This approach placed DOC in continuing breach of the employment agreement.

[65] I acknowledge the difficulties DOC experienced in seeking to discuss the new arrangements with Mrs Hemara, as a result of her refusals or failures to respond. In the circumstances I consider such difficulties more relevant to any remedy available to Mrs Hemara than to the merits of her grievance.

[66] The second of the alleged breaches of duty concerned the termination of the Hemaras' residential tenancy in January 2010. As the tenancy relationship was separate from the employment relationship, the termination of the tenancy did not amount to a breach of a duty owed in the employment relationship.

[67] The third of the alleged breaches of duty concerned DOC's reaction to the domestic dispute and its aftermath.

[68] Most of the concerns expressed in that respect were associated with the termination of the residential tenancy, and how and why the termination occurred. Mrs Hemara also expressed her dissatisfaction with the outcome of the matter before the Tenancy Tribunal, but again it is not open to her to seek redress for the same matter in the Employment Relations Authority.

[69] To the extent that DOC's reactions applied to the employment relationship, DOC was entitled to be concerned about the possible effect in the workplace of the Hemaras' domestic dispute, and to seek information to allow it to address that concern. When the immediate need for information had passed I find it also had reasonable grounds for seeking to impose a closer degree of direction and supervision on Mrs Hemara. It could not, however, do this unilaterally.

2. Did the breach of duty cause the resignation

[70] The termination of the tenancy agreement played a part in Mrs Hemara's decision to resign, but not to the extent that it displaced the causal effect of the inability to work the hours DOC sought to impose.

[71] For various reasons, some of which included family commitments, Mrs Hemara was unable to work on days which DOC nominated and during ordinary working hours. It sought an agreement on terms and conditions that in reality she was not in a position to give. Accordingly I conclude there was a sufficient causal nexus between the employment-related breach of duty in respect of her hours of work on which to base a finding that the breach caused her resignation.

3. Was a substantial risk of resignation reasonably foreseeable

[72] The risk of resignation when Mrs Hemara was unable to work during the hours DOC required was substantial and was reasonably foreseeable.

4. Conclusion

[73] For the above reasons I conclude that Mrs Hemara was dismissed.

Was the dismissal justified

[74] The attempts to address Mrs Hemara's terms and conditions of employment, and particularly her hours of work, proceeded on a flawed view of her employment status that was fatal to the justification for the resulting dismissal.

[75] I find accordingly.

Remedies

1. Reimbursement of remuneration lost as a result of the personal grievances

[76] Mrs Hemara is entitled to the reimbursement of remuneration lost as a result of the grievances. The loss flows from the failure to offer office cleaning work, either at all or under the original flexible arrangement applying to the work, commencing from 28 September 2009.

[77] I have found the suspension ended in May 2010. DOC's records indicate Mrs Hemara carried out her office cleaning duties for an average of 16 hours per fortnight

or 8 hours per week in the 12 months prior to September 2009. I therefore order that she be reimbursed for remuneration lost as a result of her disadvantage grievance in a sum to be calculated as:

8 hours x [no. weeks between 28 September 2009 and 6 May 2010] x hourly rate of pay *less* payments received in that period

[78] As Mrs Hemara secured alternative employment prior to the formal termination of her employment with DOC I am not satisfied there was any further loss of remuneration as a result of the termination. There will be no order in that respect.

2. Compensation for injury to feelings

[79] Mrs Hemara described injuries to her feelings in respect of the tenancy issue, but there was less evidence of injury in respect of the suspension and almost none in respect of the termination of her employment. By the time of termination the employment relationship had dwindled to the point that there was little scope for any further injury.

[80] In addition, Mrs Hemara's failures to respond to DOC's attempts to address her hours of work meant that some of the injury to her feelings was avoidable.

[81] For these reasons DOC is ordered to compensate Mrs Hemara for injury to her feelings in respect of her suspension in the sum of \$3,000.

3. Other claims for payment

[82] Mrs Hemara sought other payments including for: relocating children; rent; and travelling allowances. Those payments were associated with the change of address and are not remedies the Authority can order.

Summary of orders

[83] DOC is ordered to pay to Mrs Hemara:

- (a) a sum reimbursing her for remuneration lost as a result of her grievances calculated as:

8 hours x [no. weeks between 28 September 2009 and 6 May 2010] x hourly rate of pay *less* payments received in that period; and

- (b) \$3,000 as compensation for injury to her feelings in respect of both grievances together.

Costs

[84] Costs are reserved. If any party seeks an order for costs the party shall have 28 days from the date of this determination in which to file and serve a written statement setting out what is sought and why. The other party shall have a further 14 days in which to file and serve a written statement in reply.

R A Monaghan

Member of the Employment Relations Authority