

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2014] NZERA Wellington 65
5424963

BETWEEN FIONA HUNTER
 Applicant

AND TE AO MARAMA KOHANGA
 REO
 Respondent

Member of Authority: Trish MacKinnon

Representatives: Jenny Murphy, for the Applicant
 Kelly Coley and Ruth Oakley, for the Respondent

Investigation Meeting: 26 and 27 March 2014 at Palmerston North

Determination: 23 June 2014

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Fiona Hunter was employed by Te Ao Marama Kohanga Reo (TAMKR or the Kohanga) as Supervisor from 3 April 2012 to 5 August 2013, the date from which she claims to have been constructively and unjustifiably dismissed. Ms Hunter asserts she was disadvantaged in her employment by a number of actions of TAMKR and alleges it breached good faith in its dealings with her.

[2] TAMKR denies constructively dismissing Ms Hunter or breaching good faith but accepts there were failures in its processes that may have disadvantaged her.

Background

[3] Ms Hunter was treated for post-traumatic stress disorder (PTSD) in April/May 2013. The condition had resulted from her being asked to give evidence in court

proceedings related to traumatic events from her childhood. The reliving of those events led to Ms Hunter spending approximately five weeks in hospital. She was medically cleared fit to return to work from late May 2013.

[4] Ms Hunter called in at her workplace on 17 May 2013, two days after being released from hospital, to give her medical certificate to her employer and make arrangements for her return to work. The certificate stated that she could be considered for a return to work from 29 May 2013.

[5] She returned to the workplace briefly on 21 May 2013 to start the process of reintegrating but, after her employer expressed concerns that she may need more time to recover, she agreed to take additional time off. Ms Hunter obtained further medical clearance on 23 May 2013 which certified her ability to resume work on 4 June 2013.

[6] Ms Hunter returned to work on 4 June 2013 and worked through the week until Friday 7 June. From her perspective the period was without incident and she felt well. During the week she became aware that two staff members, one of whom was a friend and the other a relative, had resigned and were about to leave the Kohanga Reo. A poroporoaki (a farewell) for them was held on Friday 7 June.

[7] One of the parents present at the poroporoaki wrote to the Executive Committee (the Committee) expressing concerns about Ms Hunter's demeanour during the day. The Committee met on Saturday 8 June 2013 to discuss the complaint. Ms Hunter was not invited to attend. The following day Dean Rauhihi, who was then a member of the Committee and is now its Chair, telephoned Ms Hunter. He asked her to meet him that day to discuss the Committee's concerns.

[8] The meeting took place at Ms Hunter's house on Sunday 9 June 2013. Mr Rauhihi told Ms Hunter that a whanau member had complained of her looking "*spaced out*" and shaking at the poroporoaki. He said the Committee had decided to suspend her on full pay until she had been assessed by a mental health professional at the Kohanga premises. This was to allay concerns about the safety of the children.

[9] Ms Hunter denied the allegations. She had been sad to lose the two employees but did not exhibit the symptoms attributed to her by the parent. Mr Rauhihi told Ms Hunter the written complaint was indicative of the feeling of many of the whanau at the Kohanga, and that, rightly or wrongly, the whanau were afraid for their children's safety. Mr Rauhihi did not disclose the name of the parent

who had laid the complaint. He and Ms Hunter disagree over whether or not she asked for the name: Ms Hunter says she asked, while Mr Rauhihi says she did not.

[10] Mr Rauhihi also informed Ms Hunter that the Kohanga was experiencing financial difficulties and had decided to put all staff on the same hours which would mean a slight reduction in hours for her. Mr Rauhihi asked for Ms Hunter's keys as there had been difficulties created by not having those keys available during her absence.

[11] Mr Rauhihi visited Ms Hunter again on 14 June 2013 following a further meeting of the whanau group the previous day. Present at that meeting, by invitation of Ms Hunter, was a community psychiatric nurse with whom she had contact during her illness. Mr Rauhihi informed Ms Hunter the Committee had tried without success to arrange a psychiatric assessment to be carried out at the Kohanga as he had discussed with her the previous week. They were unlikely to be able to arrange such an assessment and, had ascertained that it would be extremely expensive if they were able to find someone to perform such an assessment.

[12] Mr Rauhihi told Ms Hunter of the view expressed by some Kohanga whanau that, even if such a workplace assessment could be completed and "*exonerated*" Ms Hunter and supported her return to work, they would still have fears for the safety of their children. Those whanau had indicated they would remove their children from the Kohanga if Ms Hunter returned to work there.

[13] Mr Rauhihi also informed Ms Hunter of other issues that were of concern to the whanau. These were the financial strain that Ms Hunter's continued absence had put on the Kohanga, combined with a recent review of timesheets which showed that a large amount of her time at the Kohanga had been on paid leave.

[14] He said the whanau were particularly upset over Ms Hunter being awarded time off in lieu (TOIL) for a period spent over the Christmas break when she, her husband, and other staff and whanau of the Kohanga had painted the premises. Mr Rauhihi stated that some of the staff at TAMKR had stated they would leave if Ms Hunter returned to work at the Kohanga.

[15] Mr Rauhihi said that, because of all these factors, TAMKR had decided to ask for Ms Hunter's resignation. The meeting was terminated when Ms Hunter became

distressed. Mr Rauhihi telephoned her some days later to ask if she agreed to resign. Ms Hunter did not agree and remained on suspension until 2 August 2013.

[16] Ms Hunter engaged a representative around this time and, after having been asked to resign by her employer, notified her personal grievance for unjustified disadvantage on 19 June 2013, requesting mediation to resolve those issues. The parties attended mediation on 17 July 2013 but were unable to resolve the matters between them.

[17] Shortly after midday on 2 August 2013 TAMKR, through its representative, emailed Ms Hunter's advocate four individual statements from members of the Committee and Kohanga whanau. One was the original complaint received by the Committee on 7 June 2013 relating to Ms Hunter's demeanour on that day. The others also referred to Ms Hunter's appearance that day. Some letters commented on her appearance, and their perceptions of her wellbeing, on the day of her visit to the Kohanga following her release from hospital some weeks before she had commenced back at work.

[18] One letter also referred to an incident on 7 June 2013 when the writer said she had witnessed a child being bullied while Ms Hunter appeared to be oblivious to it happening close to her. None of the complaints or statements had previously been disclosed to Ms Hunter.

[19] Later in the afternoon of 2 August 2013 a further email was sent from the Kohanga's representative advising that Ms Hunter's suspension was at an end and she was expected to return to work on Monday 5 August 2013. The communication invited Ms Hunter to attend mediation on an urgent basis to resolve any outstanding issues. Ms Hunter did not return to work on 5 August 2013. She notified TAMKR of her personal grievance for unjustified constructive dismissal on that day.

Issues

[20] The issues for the Authority to determine are:

- (i) Whether Ms Hunter was unjustifiably disadvantaged by her employer's actions of:

- (a) Disclosing details relating to her hospitalisation to parents and staff of the Kohanga;
 - (b) Suspending her from her employment on 9 June 2013; and
 - (c) Reducing her pay during her suspension;
- (ii) Whether Ms Hunter was discriminated against by her employer on the basis of her recent psychiatric illness;
 - (iii) Whether Ms Hunter was constructively dismissed by TAMKR; and
 - (iv) Whether Te Ao Marama Kohanga Reo breached good faith in relation to its actions, and lack of action, towards Ms Hunter; and in misrepresenting the Kohanga's financial situation to her.

Personal grievances and the test of justification

[21] Whether or not a dismissal or an action is justifiable is determined on an objective basis by applying the test specified in s.103A of the Employment Relations Act 2000 (the Act). The test is whether the employer's actions, and how the employer acted, were what a fair and reasonable employer could have done in all the circumstances at the time the action occurred. A range of factors must be considered in applying the test.

[22] The Act precludes the Authority from finding a dismissal or action to be unjustifiable solely because of defects in the employer's process if the defects were minor and did not result in the employee being treated unfairly.¹

The Authority's investigation

[23] Evidence for the applicant was given by Ms Hunter and three others. Seven witnesses gave evidence for the respondent. Two other intended witnesses filed written statements in support of the respondent but did not appear at the investigation meeting and I have accorded no weight to their unsworn evidence.

[24] In reaching my decision I have considered the evidence given by witnesses who appeared at the investigation meeting and the submissions of the parties. In

¹ Section 103A(5)

accordance with s. 174 (b) of the Employment Relations Act 2000 (the Act), however, I have not necessarily referred to all such information in this determination.

Did TAMKR disclose details of Ms Hunter's hospitalisation and, if so, was she disadvantaged by that?

[25] Joy Fitzgerald, who is currently a staff member of the Kohanga, told the Authority she had been informed by a member of Ms Hunter's family in April 2013 that Ms Hunter was very unwell and in the hospital's psychiatric ward. Ms Fitzgerald, who was not employed by the Kohanga at the time, and did not become a member of the Committee until May 2013, said she asked staff of TAMKR for further information but was told they knew nothing, and all they had been told was that it was confidential.

[26] Ms Fitzgerald said she took it upon herself to talk to other parents because of her concerns that Ms Hunter's position remained open at the Kohanga. She regarded that as an issue because her daughter attended the Kohanga and Ms Hunter could return to work there. She needed to know that her daughter and other children would not be at risk when that happened.

[27] I am satisfied from the evidence that TAMKR was not responsible for releasing information about Ms Hunter's medical condition until after Ms Fitzgerald had informed most parents that Ms Hunter was in the psychiatric ward of the hospital. The information the Committee then released appears to have been in an attempt to calm the agitated reaction of some of the parents and employees of the Kohanga.

[28] I find any disadvantage suffered by Ms Hunter as a result of information relating to her hospitalisation being released was attributable to a whanau parent and not to TAMKR.

Was Ms Hunter unjustifiably disadvantaged by TAMKR's suspension of her?

[29] Mr Rauhihi said one of the reasons he requested a meeting with Ms Hunter on 9 June 2013 was to tell her the Committee had decided to suspend her. Its decision had been taken at a meeting the previous day, which Ms Hunter had not been invited to attend and therefore had no power to influence.

[30] The Employment Court has recognised there is “*no immutable rule requiring that an employee must be told of the employer’s proposal to suspend with a view to giving the employee an opportunity to persuade the employer not to do so*”² In that decision, Chief Judge Colgan noted that:

*Imminent danger to the employee or others and an inability to perform safety-sensitive work are two examples of circumstances in which it might be held to be inappropriate to delay an intended suspension to give the employee an opportunity to be heard about that intention. Ultimately the test in each case must be the fairness and reasonableness of the employer’s conduct. In many cases that will call for advice and discussion before determining to suspend; in others, it may not.*³

[31] At the time Ms Hunter was suspended from her duties, she had full medical clearance to be at work. It could not be claimed from an objective standpoint that she posed an imminent danger to herself or to the children at the Kohanga.

[32] As a general rule there must be either statutory or contractual justification for suspension in the absence of contemporaneous agreement by the employee. Ms Hunter’s individual employment agreement provided for suspension in the event of serious misconduct. This was to enable the employer to carry out an investigation into the matter. In this instance there was no suggestion of serious misconduct by Ms Hunter. The reason for the suspension was to enable a medical assessment of her to be completed in the workplace before her employer would allow her to return to her duties.

[33] In these circumstances I find TAMKR’s suspension of Ms Hunter to have been unlawful. It was not sanctioned by her individual employment agreement; there was no reasonable basis for it; she did not agree to her suspension, and had no ability to influence her employer’s decision before it was made.

[34] Mr Rauhihi acknowledged in the course of the investigation meeting that in hindsight it was not fair to Ms Hunter to suspend her in the manner that he did. At the time he believed it was fair and there was no other way to allay the fears of the whanau.

[35] I find Ms Hunter was disadvantaged by being suspended from her employment. She was entitled to be back at work and was not responsible for the

² *Graham v Airways Corporation of New Zealand* [2005] ERNZ 587 at 613

³ *Ibid* 3 at 614

unfounded concerns others had about her. While she was not, ultimately, financially disadvantaged by her suspension, I accept it caused her stress and anxiety at a time when she was newly recovered from a period of ill-health.

[36] In reaching that conclusion I have taken into account the size of the Kohanga and its lack of resources in employment matters. At that stage it had not engaged a representative or sought human resources or legal advice. However, those factors are outweighed by the defects in TAMKR's process and the disadvantage caused to Ms Hunter by her suspension.

Was Ms Hunter disadvantaged during her suspension by the reduction of her pay?

[37] Mr Rauhihi also relayed the Committee's decision to reduce her hours from 37.5 hours per week to 32.5 hours per week, telling her that all staff would be working the same times. Evidence during the investigation meeting established this was not correct and that Ms Hunter's successor in the role enjoyed an increase to her hours of work rather than a reduction.

[38] Ms Hunter normally worked a 37.5 hour week. Her individual employment agreement provided that no variation to the terms of the agreement should be effective or binding on either party unless it was in writing and signed by both parties. Ms Hunter was not consulted about a variation in her hours of work and did not agree to the reduction in her hours, and therefore to her pay. The parties did not sign a written variation.

[39] The change to her hours of work was a unilateral decision taken by Ms Hunter's employer in breach of the terms of her employment agreement. TAMKR addressed this matter in August 2013, two weeks after Ms Hunter had notified her resignation, by paying her the difference between the reduced wages it paid her throughout her suspension and the wages for the hours that represented her normal 37.5 hours per week.

[40] Ms Hunter was underpaid during the eight weeks of her suspension, thereby losing the benefit of a portion of her wages during that time. That disadvantaged her in her employment. However, the Kohanga's remedying of the underpayment mitigated the disadvantage she suffered and is a factor to be considered in relation to any remedy Ms Hunter should be awarded.

Did TAMKR discriminate against Ms Hunter on the basis of her recent psychiatric illness?

[41] The relevant parts of section 104 of the Act concerning discrimination provide as follows:

1. For the purposes of s.103(1)(c) an employee is discriminated against in that employee's employment if the employee's employer or a representative of that employer, by reason directly or indirectly of any of the prohibited grounds of discrimination specified in s.105.... -
 1. n/a
 2. dismisses that employee or subjects that employee to any detriment, in circumstances in which other employees employed by that employer on work of that description are not or would not be dismissed or subjected to such detriment; or
 3. retires that employee, or requires or causes that employee to retire or resign.
- 2 For the purposes of this section **detriment** includes anything that has a detrimental effect on the employee's employment, job performance, or job satisfaction.
- 3 This section is subject to the exceptions set out in s.106.

[42] Section 105 of the Act provides that the prohibited grounds of discrimination under the Act are those specified in s. 21(1) of the Human Rights Act 1993. They include disability⁴, the definition of which includes psychiatric illness. There are specific exceptions that make it lawful for employers to treat employees differently based on disability, which are set out in s. 29 of the Human Rights Act.

[43] The respondent made no submissions on the application of the exceptions, but I have considered whether any of them apply for the sake of completeness. The only exception TAMKR could possibly argue to be relevant is that of s. 29 (1)(b) where:

The environment in which the duties of the position are to be performed or the nature of those duties, or of some of them, is such that the person could perform those duties only with a risk of harm to that person or to others.....and it is not reasonable to take that risk.

[44] However, as I have already found, there was no rational basis for excluding Ms Hunter from the workplace. She had suffered an unfortunate illness arising from having to relive traumatic events from her childhood. She had been treated for that

⁴ Section 105 (1)(h)

illness and had medical clearance to return to work. There was no risk of harm, either to herself or to the Kohanga children.

[45] The evidence before me strongly suggests the treatment Ms Hunter received from her employer stemmed from ignorance about, and prejudice towards, mental illness. A number of people associated with the Kohanga, as parents of attending children, Committee members and employees, stated their opposition to Ms Hunter returning to work. They acknowledged in the investigation meeting they had no medical knowledge on which to found that opposition. They thought Ms Hunter's reactions might be slower; that she might be inattentive to the children; and that she might not be fully focussed.

[46] They based their views on their perceptions of Ms Hunter's demeanour following her release from hospital, and on a day when two colleagues close to her were leaving the Kohanga. They had fears that the children at the Kohanga Reo may suffer as a result of her not being fully fit to be at the workplace.

[47] One Kohanga employee gave evidence of having threatened to resign if Ms Hunter returned to work because he feared for his own health. He believed her return as Supervisor could cause him stress, and this would exacerbate an existing serious medical condition he had. A kaumatua who gave evidence for the Kohanga acknowledged that many of the concerns came from the whanau not knowing enough about Ms Hunter's mental state. She accepted there may have been no rational basis for their concerns and attributed their reaction to fear of the unknown.

[48] I find Ms Hunter was discriminated against by her employer in relation to the psychiatric illness she experienced in April and May 2013. Her suspension and the request for her resignation were directly related to the PTSD for which she had been hospitalised. It was her employer's fear that the Kohanga children may not be safe with her because of the illness from which she had recently recovered, despite medical certification as to her ability to return to duty, that led to its discriminatory treatment of her.

Was Ms Hunter constructively and unjustifiably dismissed by TAMKR?

[49] The Court of Appeal in *Auckland Shop Employees Union v Woolworths (NZ) Ltd*⁵ held that constructive dismissal includes, but is not limited to, cases where:

- a. An employer gives an employee a choice of resigning or being dismissed.*
- b. An employer has followed a course of conduct with the deliberate and dominant purpose of coercing an employee to resign.*
- c. A breach of duty by the employer causes an employee to resign.*

[50] Ms Hunter submits TAMKR's actions come within the second of those situations. She refers specifically to the Kohanga's suspension of her without consultation or good reason, its unilateral reduction of her hours of work, and its request for her to resign. She also notes the four written complaints her employer sent to her on Friday 2 August 2013, followed shortly thereafter by its requirement that she return to work the following Monday, with no discussion about measures to be put in place for her safety. All these actions were, in her view, designed to force her resignation and made it reasonably foreseeable that she would resign.

[51] Ms Hunter said she had been told by Mr Rauhihi of one complaint relating to her demeanour when he suspended her on 9 June 2013 and informed her of the reduction to her hours. He had not referred to any other complaint and she had been completely unaware until Friday 2 August 2013 that the Kohanga was in possession of other complaints relating to her return to the workplace. She said the arrival of the letters, followed by the request for her to return to work the next working day made her realise that her employer had asked her to return to work so it could dismiss her.

[52] The Kohanga denied that was its motivation or that those matters were grounds for constructive dismissal, while acknowledging the deficiencies in some of its processes. It says there was no malice in any of its actions, including sending the four letters to Ms Hunter on the same day it informed her of the lifting of her suspension and its expectation that she return to work. In the Kohanga's view it was simply acting in a transparent manner.

⁵ [1985] 2 NZLR 372, (1985) ERNZ Sel Cas 136 (CA)

[53] TAMKR submitted that, if Ms Hunter had concerns about her safety in returning to work on 5 August, the good faith obligations she had to her employer required her to make those concerns known. Instead, she resigned without giving the Kohanga the opportunity to address those concerns.

[54] In my view TAMKR's notification to Ms Hunter on 2 August 2013 that her suspension was at an end, and its invitation to attend mediation on an urgent basis, may have been a positive signal from the Kohanga. It suggested a realisation that it was wrong to keep Ms Hunter from her job and was prepared to put matters right.

[55] Its willingness to attend mediation urgently may also have been a further sign that it was prepared to address any other matters of concern to Ms Hunter, which could have included the reduction in her hours of work, and any concerns she had for her safety in the workplace.

[56] It was regrettable that, earlier in the day of sending her this notification, the employer chose to send the four letters from parents, an employee and Committee members expressing concern about Ms Hunter's behaviour and demeanour in June 2013. The timing undermined the positive message Ms Hunter may otherwise have taken from the lifting of her suspension, and caused her to regard with scepticism and suspicion the request that she return to work the next working day.

[57] The sequence of actions taken by TAMKR, from its unlawful suspension of Ms Hunter and unilateral reduction of her hours on 9 June 2013 to the correspondence it sent her on 2 August 2013, resulted in Ms Hunter losing trust and confidence in her employer. I find her resignation on Monday 5 August 2013 to have been a constructive dismissal. There was no justification for the dismissal and accordingly Ms Hunter has a personal grievance. She was treated unfairly, and the defects in TAMKR's process that resulted in her constructive dismissal could not be described as minor.

Did TAMKR breach good faith?

[58] This claim is based on a number of specified matters, the first of which relates to Ms Hunter's claim that her employer disclosed information about her health status. I have already referred to this under Ms Hunter's claim to have been disadvantaged by her employer's disclosure. I find no breach of good faith in the Kohanga's limited

disclosure of information after a parent had taken it upon herself to inform Kohanga whanau about Ms Hunter's hospitalisation.

[59] The next matter concerns TAMKR's failure to provide Ms Hunter with information she requested at the time of her suspension. As noted earlier Ms Hunter and Mr Rauhihi have different recollections over whether she had, or had not, asked for the name of the original complainant during their meeting on 9 June 2013.

[60] I found both witnesses to be honest and credible which makes it difficult to determine who is correct on that point. On balance I prefer Mr Rauhihi's recollection. This is solely because Ms Hunter's memory of what had been said is likely to have been affected by the shock and distress she undoubtedly experienced from hearing Mr Rauhihi's news. Accordingly there was no breach of good faith by TAMKR arising from this matter.

[61] Ms Hunter claimed her employer breached good faith in not responding to her claims to a personal grievance for disadvantage during her suspension. She notified a personal grievance for "unjustified disadvantage", through her representative, by letter dated 19 June 2013, emailed to Mr Rauhihi that day. The letter traversed recent events and set out Ms Hunter's claim. It ended by asking for Mr Rauhihi's agreement to attend mediation on an urgent basis.

[62] Mr Rauhihi replied by letter dated 21 June 2013 which was emailed to Ms Hunter's representative on 27 June 2013. The parties attended mediation in due course for the purpose of discussing Ms Hunter's claims. I find there was no breach of good faith by the Kohanga on the evidence before me.

[63] Ms Hunter's claim for breach of good faith by the Kohanga includes its provision to her of documents that caused her unnecessary stress. I have already described the timing of sending the letters of complaint to Ms Hunter regrettable. However, TAMKR did not breach good faith in making the letters available to Ms Hunter.

[64] If the Committee had letters of complaint it was reasonable to make Ms Hunter aware of them. It should have done so around the time it received them, rather than waiting until one working day before it required her return to the workplace. While that was ill-advised and undermined the message of wanting Ms Hunter back at work, I do not find it to be a breach of good faith.

[65] Another claim for breach of good faith claim relates to an assertion made by the Kohanga's representative three weeks after Ms Hunter's constructive dismissal. As the employment relationship no longer existed at that point there could be no breach of good faith.

[66] The last alleged breach concerns the reasons given to Ms Hunter on 9 June 2013 for the reduction in her hours of work. Mr Rauhihi told her the Committee had decided to put all staff on the same hours of work as the Kohanga was experiencing financial difficulties. Ms Hunter says evidence provided by a time sheet for the week ended 16 June 2013 showed no loss in hours for other employees of the Kohanga.

[67] I am unwilling to find on the basis of the scant evidence before me that Mr Rauhihi, on behalf of TAMKR, breached good faith by giving erroneous information to Ms Hunter.

Contribution and Remedies

[68] I do not consider there was any contribution by Ms Hunter to the situation that led to her to her constructive dismissal.

[69] TAMKR accepts its failure to follow fair process disadvantaged Ms Hunter. It submits this was through its inexperience and lack of knowledge rather than being deliberate or malicious. At all times it was driven by genuine concerns for the children of the Kohanga and concerns about Ms Hunter's ability to resume her supervisory role while displaying what some of the whanau of the Kohanga perceived to be visible signs of illness.

[70] I accept the Kohanga whanau put pressure on the Committee to act in what the individuals believed to be the best interests of the attending children. While the children's interests were appropriately at the forefront of the Committee's minds, it should have found a better balance between those interests and the obligations it had to Ms Hunter as her employer.

[71] The Kohanga is a small employer with limited resources. The bulk of its funding is derived from the National Kohanga Reo Trust. A smaller amount comes from parents and fund raising. Accounting evidence before the Authority establishes that the Kohanga has few assets and minimal cash flow. The nature and timing of its

funding from the national organisation results in the Kohanga operating at a cash deficit for most months of the year.

[72] Nonetheless, Ms Hunter is entitled to remedies for her personal grievances. She was out of work for twelve weeks and three days before commencing alternative employment. I accept her evidence of having tried unsuccessfully to find work in the weeks after her constructive dismissal. She is entitled to be reimbursed for the loss of her remuneration during that period, based on a 37.5 hour week at her normal hourly rate at the time of her dismissal.

[73] She has also claimed compensation. I am satisfied from the evidence that Ms Hunter was hurt and distressed by the treatment she received from her employer. I find it appropriate to make a global award of compensation for her personal grievances.

Determination

[74] Te Ao Marama Kohanga Reo is ordered to pay Ms Hunter:

- a. \$9,213.75 (gross) in accordance with s. 123(1)(b) of the Act; and
- b. \$7,000 without deduction in accordance with s. 123(1)(c)(i) of the Act.

[75] In view of the financial circumstances of Te Ao Marama Kohanga Reo, the parties may wish to discuss payment by instalment. Leave is granted for either party or both parties to return to the Authority regarding that matter.

Costs

[76] The issue of costs is reserved.

Trish MacKinnon
Member of the Employment Relations Authority