

satisfied that the advocate for Installer Services had previously had contact with Mr Burd's mother and had her assurance that she could or would pass material on to her son.

[4] No further contact has been established with Mr Burd, notwithstanding the clear direction that he had 21 days to respond to the application before the Authority proceeded to determine the matter.

[5] I am satisfied Mr Burd has been given every reasonable opportunity to engage with the Authority's process and that he has made an affirmative decision not to so engage.

[6] The factual position is straightforward. Mr Burd was employed by Installer Services as *the Nelson/Marlborough Installer*. There was a written employment agreement signed on 28 September 2007. Amongst other things, that employment agreement emphasises the standards that Installer Services require of its employees and the collaborative nature of the employment relationship.

[7] On or about 22 March 2008 Installer Services received an undated handwritten resignation from Mr Burd indicating that the company vehicle of which he was in charge, had been left at Nelson airport and that his resignation was to take effect immediately because of *family crap*. The letter of resignation said that *everything you need* was with the company car at Nelson airport.

[8] However, that is not the position according to Installer Services. They allege that Mr Burd had in his possession at the time of his unexpected resignation two Panasonic CD players belonging to Installer Services, unaccounted for banking belonging to Installer Services and in addition, the recovery of the company vehicle at Nelson airport put the Christchurch based employer to expense. Finally, Installer Services seek the recovery of two weeks notice which in effect was not available to it because of the sudden withdrawal of Mr Burd's services.

[9] In addition, Mr Burd apparently had in his possession a company float of \$500 which remains unaccounted for and there was a claim of \$1,506 plus GST for work lost as a consequence of the failure to provide notice.

Issues

[10] It is appropriate to consider each of the heads of claim in turn based on the information before the Authority.

[11] Installer Services have helpfully provided the Authority with an analysis of each of the particular claims made and I will comment now on each of them in turn.

The cash float

[12] Installer Services contend that Mr Burd was provided with a cash float which remains unaccounted for. The evidence is clear and in the absence of any response from Mr Burd, I am satisfied this claim is made out.

Outstanding banking

[13] The allegation in respect of outstanding banking is based on an approximation of what Mr Burd ought to have banked for the last period of his employment. Given that he was working remotely from the head office of the applicant employer and was in a position of trust, it was expected that he would bank moneys over the final period of his employment which were reasonably consistent in volume with the bankings that he had made immediately prior to the period in question.

[14] I have reviewed the evidence provided to me by Installer Services and I am satisfied that their claim of \$652.86 for the eleven day missing period at a daily rate of \$50.22 (the average daily amount banked for the preceding period) is a fair claim in all the circumstances.

The Panasonic CD players

[15] The statement of problem refers to two Panasonic CD players missing from stock. The further evidence provided by Installer Services includes an invoice for the supply of those units and I am satisfied that the total claim of \$234.68 is made out.

Overpaid wages

[16] The evidence from Installer Services is that they paid Mr Burd some wages in advance over the 2008 Christmas period (this being effectively holiday pay in advance) and that in addition to that, Installer Services are entitled to recover a further two weeks amounting to \$1,628.73 being the two weeks notice which Mr Burd failed

to provide when he suddenly resigned his employment and left the employer *in the lurch*.

[17] The law on this particular matter is clear. The employer cannot seek to recover moneys unreasonably in such circumstances.

[18] I am satisfied on the evidence before me that Installer Services were genuinely put out by Mr Burd's sudden and unexpected resignation and that they suffered loss as a consequence, which it is appropriate to reflect in an award enabling them to recover their loss.

The vehicle recovery costs

[19] Installer Services seek to recover the actual and reasonable costs of their having to travel to Nelson airport to recover their company vehicle left there by Mr Burd. There can be no question on the evidence before the Authority that Installer Services has incurred actual losses as a consequence of Mr Burd's actions. Those costs should be met by Mr Burd. The total quantum of the costs I find proved against him in this regard is in the sum of \$316.72 comprising \$190 worth of airfare to Nelson from Christchurch, \$43.20 of taxi fares to Christchurch airport and a total petrol bill to get the vehicle back to Christchurch of \$83.52.

Installer Services claim the sum of \$1,506 plus GST for work lost as a consequence of Mr Burd's sudden resignation

[20] There was no particular evidence provided to the Authority to justify this amount, and even if there were, I am not persuaded that I have the authority to award costs against Mr Burd for what amounts to a contingent profit figure. It follows that that claim is denied.

Determination

[21] For the reasons identified above, I direct that Mr Burd is to be pay Installer Services the following sums:

- (a) Reimbursement of the \$500 cash float;
- (b) Reimbursement of the missing banking of \$652.86;
- (c) Reimbursement of the costs of two Panasonic CD players totalling \$234.68;

- (d) Reimbursement of overpaid wages in the sum of \$1842.00;
- (e) Reimbursement of vehicle recovery costs in the sum of \$316.72.

Costs

[22] Costs are to lie where they fall.

James Crichton
Member of the Employment Relations Authority