



[4] This situation falls within the third category of recall, as laid down in *Horowhenua County v Nash (No 2)* [1968] NZLR 632 at 633, that is justice requires that the determination be recalled.

[5] Mrs Kirkley was successful for her claim for lost wages within the period of her sabbatical. The statement of claim states that she was paid for three of the six months of that sabbatical. The order that she is entitled to be reimbursed four months of that period is wrong.

[6] Paragraph 132 of the determination AA 51/08 dated 19 February 2008 should be amended as follows:

*Mrs Kirkley was dismissed on 30 April 2006, approximately two months into her six month sabbatical which had commenced on 22 February 2006. She is entitled to the balance of that sabbatical, less any wages received. I set that award at three months lost wages. I accept that Mrs Kirkley was unwell during this period and that she has been unable to look for employment.*

[7] With regard to the setting of costs for the substantive determination. Counsel should confer as to a revised timetable for costs, if one is necessary, and advise the Authority.

Marija Urlich

Member of the Employment Relations Authority