

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2020] NZERA 213  
3062975

BETWEEN                      KYLIE STEVENSON-WRIGHT  
Applicant

AND                             HOTEL CHATHAMS LIMITED  
Respondent

Member of Authority:        Helen Doyle

Representatives:             David Cain, advocate for the Applicant  
Toni Croon, advocate for the Respondent

Investigation Meeting:       11 March 2020 at Chatham Islands

Submissions Received:       On the day

Date of Determination:       28 May 2020

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**DETERMINATION OF THE AUTHORITY**

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- A     Hotel Chathams Limited unjustifiably dismissed Kylie Stevenson-Wright from her employment and is ordered to pay her the following amounts taking contribution into account:**
- (i)     \$9,012.80 gross being reimbursement of lost wages under s123 (1)(b)(i) of the Employment Relations Act 2000.**
  - (ii)    \$12,000 without deduction being compensation under s123 (1)(c)(i) of the Employment Relations Act 2000.**
- B     I have reserved the issue of costs and set a timetable for an exchange of submissions.**

## **Employment Relationship Problem**

[1] Kylie Stevenson-Wright was employed at the Hotel Chathams Limited (Hotel Chathams or the Hotel) over the summer months between December 2015 and March 2016. She returned to work at the Hotel from in or about June 2016 and aside from a period of absence with an arm injury remained an employee at Hotel Chathams until the events of October and November 2017. Ms Stevenson-Wright worked multiple roles at the Hotel from restaurant/bar work to laundry work although in 2017 was predominantly undertaking restaurant/bar duties.

[2] Ms Stevenson-Wright says that she was dismissed from her employment during a meeting on 20 November 2017 with the sole Director and owner of Hotel Chathams, Toni Croon. This meeting was held after Ms Stevenson-Wright took a period of authorised and unauthorised leave. She says that the dismissal was unfair and that she did not have an opportunity with the knowledge that her position was at risk to discuss the circumstances that had caused the situation and have them properly considered.

[3] She seeks reimbursement of three months lost wages, compensation in the sum of \$20,000 and costs.

[4] Ms Croon does not accept that Ms Stevenson-Wright was dismissed at the meeting on 20 November 2017. She says that she authorised a period of leave from 16 October until 30 October 2017 for Ms Stevenson-Wright following the death of her father. Ms Stevenson-Wright asked for an extension of a week to that period. Ms Croon did not authorise that extension. Ms Stevenson-Wright advised that she would return on 8 November 2017 but failed to do so or advise her of the reasons for this. Ms Croon said that when they finally met to discuss the issues on 20 November she told Ms Stevenson-Wright that she could roster her on for work from the following week but Ms Stevenson-Wright did not return to work.

## **The Issues**

[5] The Authority needs to determine the following issues in this case:

- (a) How did the employment relationship between Ms Stevenson-Wright and Hotel Chathams Limited end?
- (b) If Ms Stevenson-Wright was dismissed then was the dismissal unjustified?

- (c) If the dismissal was unjustified then what remedies should be awarded to Ms Stevenson-Wright and are there issues of mitigation and contribution?

**How did the employment relationship between Ms Stevenson-Wright and Hotel Chathams Limited end?**

*Authorised leave*

[6] On 13 October 2017 Ms Stevenson-Wright was advised that father had unexpectedly suffered a heart attack, was non-responsive and that life support was to be turned off. Her father subsequently passed away. Ms Stevenson-Wright was granted bereavement leave from 16 to 30 October 2017 confirmed in a written leave form. Her first day back at work after the period of leave was recorded on the leave form as 31 October 2017.

[7] Following the approval of leave Ms Stevenson-Wright flew from the Chatham Islands to Wellington and drove to Palmerston North to meet with her family. There was a private cremation on 17 October 2017 with immediate family but no service. Ms Stevenson-Wright said that her father, the oldest of nine children, had wanted a celebration of life rather than a service at that time with his siblings.

[8] On 20 October 2017 it was agreed by the extended family that the best time to have a celebration of life service for her father would be on 5 November 2017 as that would coincide with what would have been his 70<sup>th</sup> birthday. In her oral evidence Ms Stevenson-Wright said that family and friends including those from overseas were already intending to come to celebrate that birthday. She left a telephone message with the office at the Chathams Hotel asking if she could have the following week on leave however said that there was no response to that. Ms Croon said that she did not receive a message.

[9] Ms Stevenson-Wright then prepared to return to the Chatham Islands on a flight departing on 30 October.

*Communication prior to 30 October 2017*

[10] A series of Facebook messages were sent between Ms Croon and Ms Stevenson-Wright about returning to work at the end of the authorised period of leave. The first was a message from Ms Croon to Ms Stevenson-Wright on Sunday 29 October 2017 that she was rostered on “tomorrow” which would be 30 October 2017. Ms Stevenson-Wright wanted

some clarification about that and her view was that the leave agreed meant that her first day back was on Tuesday 31 October. In her final message she asked Ms Croon if she wanted to give her a call on her cell phone.

*Decision made to extend leave*

[11] Ms Stevenson-Wright did not get on the plane to the Chatham Islands on 30 October 2017 as intended. A further message was then sent to Ms Croon on 30 October 2017 with the reasons. There was reference to the weekend event planned on what would have been her father's 70<sup>th</sup> birthday. Ms Stevenson-Wright noted in her message that Ms Croon had been clear with her before she left that leave would not be extended. She wrote that she was prepared to return and miss the event for her father until Ms Croon had messaged her the day before advising that she was rostered on that evening. She also referred to Ms Croon's reaction/response when she told her about her father's heart attack and that he was not expected to live. She wrote that when she was heading to the airport that morning to travel back she could not recall any positive interaction or feedback from Ms Croon in the last few months and that she could not bring herself to miss out on the final farewell for her father and return to that kind of negativity. She stated that she knew it would be inconvenient from a business perspective and said that Ms Croon could call her on her cell phone otherwise she would be back to the Chatham Islands the following week.

*Message to payroll on 30 October 2017*

[12] A message to the payroll administrator at the Hotel from Ms Stevenson-Wright supports an intention on Ms Stevenson-Wright's part to travel and then a change of heart. The message is sent on 30 October 2017 at 8.22am. It is a request for the administrator to pay bereavement leave and holiday pay and to take from that the rent for the accommodation that Ms Steven-Wright had at the Hotel. In the message Ms Stevenson-Wright refers to being "back tonight."

*Ms Croon does not authorise an additional week's leave*

[13] In an email dated 1 November Ms Croon advised Ms Stevenson-Wright that whilst she understood and sympathised with her she could not authorise the additional leave on short notice due to the Hotel being understaffed at the start of the busy season. She wrote that she had explained to Ms Stevenson-Wright before she left that she was rostered on and stated that

as she has not returned on 30 October 2017 she had rostered her on for 4 November at 5.30pm and that she was expected to attend that shift.

*Ms Stevenson-Wright responds on same day to email from Ms Croon*

[14] By email of the same day to Ms Croon, Ms Stevenson-Wright acknowledged her appreciation for the two week's leave. She wrote that she did not want to defy employment obligations but the circumstances with her father were such that she could not be absent from the event. She wrote that she understood her decision may result in disciplinary action and that Ms Croon may seek to dismiss her and referred to her service with the Hotel and her reliability. She wrote that she would be flying in on Wednesday 8 November 2017 so that she could be on the roster from Thursday if Ms Croon still wanted her to work at the Hotel.

*Follow up message from Ms Stevenson-Wright to Ms Croon on 6 November 2017*

[15] Ms Stevenson-Wright sent a message to Ms Croon on 6 November checking if she had received her email. She asked whether Ms Croon intended to proceed with a disciplinary process, if she had been included on the roster and if she would return to her regular shifts or whether changes had been made.

*Message from Ms Croon in response*

[16] Ms Croon responded by message on 7 November 2017 and asked Ms Stevenson-Wright to see her when she was back and the roster would be changed to fit her in.

*What happened on 8 November 2017?*

[17] On 8 November 2017 Ms Stevenson-Wright said that she went to Wellington airport to catch her flight and experienced dizziness and had a fainting spell. She said that the Chatham Islands air hostess observed something was not right and would not permit her to fly that day. Her flight was rescheduled for Friday 10 November 2017 which was the next available flight to the Chatham Islands. She said that she asked a friend to contact Ms Croon.

[18] Ms Croon said that she was at the Chatham Islands airport on 8 November 2017 when the plane from Wellington arrived and Ms Stevenson-Wright was not on it. Her evidence was that she was not told by anyone that Ms Stevenson-Wright would not be arriving that day and/or the reason why. She said that two matters resulted in her concluding Ms Stevenson-

Wright was a “no show.” The first was the failure to arrive without explanation on the Chathams on 8 November 2017 and the second was that Ms Stevenson-Wright had moved her possessions out of her flat without notice after 30 October. In respect of the second matter Ms Croon said in her evidence that there is a scarcity of accommodation on the Chatham Islands and it is like “gold.” For that reason she thought that Ms Stevenson-Wright did not intend to return.

*Arrival back on the Chatham Islands 10 November 2020*

[19] Ms Stevenson-Wright arrived back on the Chatham Islands on Friday 10 November 2017 in the evening. At 8:30 p.m. she went to the Hotel. She was informed that Ms Croon had gone to bed early and said that she left a message with staff member Oscar to pass along that she had dropped by to see her.

[20] During this visit Ms Stevenson-Wright said she met with a new staff member and spoke with the duty staff. She said that they expressed they were glad that she was back so they could have some time off. The Authority heard evidence from Floyd Prendeville, who is the General Manager and the Bar Manager at the Hotel. He recalled seeing Ms Stevenson-Wright at the Hotel and giving her a hug and expressing condolences. He referred to her walking to the balcony but there was no discussion with him about her placement on the roster.

[21] Ms Croon said that no message reached her until sometime later that Ms Stevenson-Wright had been in the Hotel and wanted to meet with her on the evening of 10 November 2017.

*The next contact*

*12 November 2017*

[22] On Sunday 12 November 2017 Ms Stevenson-Wright went to a friend’s place where there was a phone and Wi-Fi and she messaged Ms Croon to see if she could meet with her the following day.

[23] Ms Croon responded by message and said that she was tour guiding until Saturday [18 November] so the Monday [20 November] would be fine.

*Further messages*

[24] Ms Stevenson-Wright sent a further message to Ms Croon on 16 November 2017 asking if she had been included on the roster from the coming Monday. Amongst other matters Ms Stevenson-Wright asked Ms Croon to message back regarding the roster, shifts and what Ms Croon wished to discuss when they meet.

[25] Ms Croon responded on 17 November advising that she was tour guiding until Saturday and was happy to meet on Monday.

*Meeting 20 November 2017*

[26] A meeting took place between Ms Stevenson-Wright and Ms Croon on the morning of 20 November 2017. There was agreement that it started at 10am and lasted for about ten minutes. Some of what was discussed is not in dispute and I will start with those matters.

[27] There was a discussion about why Ms Stevenson-Wright had moved out of her accommodation without giving notice and also about the state in which the accommodation had been left with reference to a \$500 cleaning bill.

[28] There was a discussion about what occurred between 8 and 12 November 2017.

[29] The area in which there is material dispute is whether Ms Stevenson-Wright was advised she had been replaced by new staff, there was no further role for her and that she was no longer employed.

[30] Ms Croon did not dispute that there were new staff brought in to cover shifts. Her recollection of what was said was that she would see Mr Prendeville about putting Ms Stevenson-Wright back onto the roster after 27 November 2017. Ms Croon said that she was very aware of “not dismissing” Ms Stevenson-Wright at the meeting on 20 November 2017.

[31] Ms Stevenson-Wright said she was told that because staff had been hired to replace her she was no longer employed. There was also mention that she had abandoned her employment.

[32] Ms Stevenson-Wright said that she asked for confirmation of her dismissal in writing but that Ms Croon was not prepared to commit to that.

*What happened next?*

[33] Ms Stevenson-Wright left the meeting and went to a friend's home where she asked to use the Wi-Fi and wrote a message to Ms Croon to set out and confirm the conversation. The message was sent at 2.17pm on 20 November and provides as follows:

Hi Toni

Thanks for the meeting today, just to confirm our conversation.

You informed me that as it took me 4 days to get in touch when I came back to the island, during that time you replaced me with someone else.

I said that I had asked if i was rostered on and if so when and you just said to catch up with you after i returned to look at fitting me back on the roster. You did not give me any specifics so I did take a couple of days as I felt pretty unsettled leaving my family behind.

You just repeated that in those couple of days you had hired someone else.

I told you that I had actually come in on the Friday night but you were already upstairs and as it was a little late I didn't want to wake you (I actually was introduced to Eden the new person that night when I came in.)

I reminded you I was on a permanent agreement and you just shrugged. I said that there's process to follow for dismissal and you responded that it was done. I asked if you could confirm that for me in writing and you said no that you had just told me now. You then said you'd say it was abandonment of employment. I explained it didnt fit the criteria for that and you just told me I could do what I wanted with it then.

You also asked me if it was usual to move out of a flat without giving notice?

I told you I wasn't really operating under usual circumstances but thought it was best when I stayed the extra week without permission as I thought you would want that anyway.

You then said that you had a \$500 cleaning bill for me which you asked Francesca to type up at the end of our meeting – I asked you to just post it out to me and left.

Cheers, Kylie

[34] There was no response to that or another message sent by Ms Stevenson-Wright on 19 January 2018.

[35] In a letter dated 18 February 2018 Ms Stevenson-Wright raised a personal grievance of unjustified dismissal. Ms Croon responded to the effect that Ms Stevenson-Wright still had a job at Hotel Chathams.

*Conclusions as to how the relationship ended*

[36] Ms Stevenson-Wright and Ms Croon have different accounts of what occurred during the meeting on 20 November 2017. Ms Stevenson-Wright says that she was dismissed. Ms Croon that there was an offer to place Ms Stevenson-Wright on the roster in the week commencing 27 November 2017. She characterises the ending of the relationship in effect as Ms Stevenson-Wright resigning when she did not turn up to work as rostered the following week commencing 27 November 2017.

[37] There were no witnesses to the conversation on 20 November 2017.

[38] The message sent later during the same day of the meeting is consistent with a belief on the part of Ms Stevenson-Wright that she had been dismissed at that meeting on the grounds that she had taken four days to get in touch and had been replaced by someone else. There was no mention of any understanding that she was to be rostered on for work after 27 November 2017.

[39] Ms Croon accepted in evidence that she had read the message from Ms Stevenson-Wright but could not recall when she had done so. She was in the Hotel on 20 November 2017 and it is more likely than not that it was read within a reasonable time after the message was sent.

[40] From that message Ms Croon would have understood that Ms Stevenson-Wright regarded herself as dismissed on the basis that she had been replaced.

[41] A dismissal has been defined as a termination of the employment relationship at the initiative of the employer.<sup>1</sup> Ms Croon denies there was an actual dismissal. However she knew that Ms Stevenson-Wright believed she had been dismissed from her message. If dismissing Ms Stevenson-Wright had not been Ms Croon's intention during the meeting of 20 November 2017 and it was simply a misunderstanding there was an opportunity for Ms Croon to clarify that and keep the relationship on foot. She failed to do that within a reasonable time of receiving that message on 20 November 2017. That was not in accordance with good faith obligations in s 4 of the Employment Relations Act 2000 (the

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<sup>1</sup> *Wellington, Taranaki and Marlborough Clerical and Administrative and Related Workers Union v V.V. Greenwich and C.F. Greenwich* [1983] ACJ 965

Act) including the obligation to be active and constructive in establishing and maintaining a productive employment relationship in which the parties are responsive and communicative.

[42] It is perhaps more usual to see cases where an employee is treated against his or her will as having resigned than cases about a mistake about being dismissed. An Employment Court judgment with some similarities to the facts in this case is *New Zealand Cards Limited v Colin Ramsay*.<sup>2</sup> In that judgment Judge Couch specifically referred to a situation where the mistake was about dismissal rather than resignation and stated as follows:

...Where the communication is equivocal, the employer learns that the employee has misunderstood it as a dismissal contrary to the employer's intention but does nothing within a reasonable time to correct the employee's false impression. In such a case the employer must suffer the adverse consequences of passively standing by and letting the employee think that a dismissal has taken place.<sup>3</sup>

[43] If Ms Stevenson-Wright had not been dismissed at the 20 November 2017 meeting then a fair and reasonable employer could have been expected to have communicated promptly with her to keep the relationship on foot. Ms Croon did not do so and suffers the consequences of that inaction. Her failure to communicate within a reasonable timeframe after she found out that Ms Stevenson-Wright believed she had been dismissed on 20 November 2017 amounted to dismissal.

*Was the dismissal justified?*

[44] Consistent with the view that Ms Stevenson-Wright had not been dismissed the Hotel did not advance any justification for the dismissal.

[45] The Authority is required to apply the test of justification in s103A of the Act. Objectively assessed I do not consider that a fair and reasonable employer could in all the circumstances have acted in the following ways. A fair and reasonable employer could not have failed to respond to Ms Stevenson-Wright's request for information on 17 November 2017 about what Ms Croon wanted to discuss at the meeting on 20 November 2017.

[46] If Ms Stevenson-Wright was dismissed at the meeting on 20 November 2017 then the dismissal was unjustifiable as there was an absence of procedural fairness overlapping with any substantive fairness.

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<sup>2</sup> *New Zealand Cards Limited v Colin Ramsay* [2012] NZEmpC 51

<sup>3</sup> Above n 2 at [51]

[47] If the intention was not to dismiss Ms Stevenson-Wright at the meeting on 20 November 2017 a fair and reasonable employer could not have failed to respond promptly to her message that she believed she had been dismissed.

[48] The dismissal was unjustifiable.

[49] Ms Stevenson-Wright has made out her personal grievance that she was unjustifiably dismissed from her employment with Hotel Chathams on 20 November 2017. She is entitled to a consideration of remedies.

## **Remedies**

### *Reimbursement of lost wages*

[50] Ms Stevenson-Wright seeks reimbursement of lost wages for a period of three months from the date of her dismissal.

[51] After her dismissal she said that she started to look for jobs on the Island however the timing was difficult and the significant employers on the Island<sup>4</sup> who may have accommodation available were not looking to take on new staff until mid to late January 2018. Ms Stevenson-Wright was offered some odd jobs such as cleaning but this was work undertaken in exchange for accommodation, groceries, use of a shower and washing machine rather than for wages. She had to stay at her ex-partner's home as she had nowhere else to live. Shortly before Christmas Ms Stevenson-Wright left her two dogs with a friend on the Chatham Islands and went to New Zealand. She initially lived with her mother in Tauranga and then moved around and stayed with friends and family. She was reliant on her family and friends for living expenses and had had to borrow money for the plane ticket from the Chatham Islands to New Zealand.

[52] The first work she managed to obtain was in or about 10 March 2018 testing kiwifruit.

[53] I accept that Ms Stevenson-Wright took steps to mitigate her loss but her ability to secure new employment was hampered by the timing of the dismissal in late November for work on the Chatham Islands. In New Zealand she was faced with the insecurity and uncertainty of her living situation. There was also a hope at least initially that she would

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<sup>4</sup> Fish factories

return to the Chatham Islands where she had left her dogs and a car but there were difficulties with that with limited accommodation availability and the expense of travel.

[54] Under s 128 of the Act where the Authority determines that an employee has a personal grievance and has lost remuneration the Authority must under s 128(2) order the payment to the employee by the employer of the lesser of a sum equal to that lost remuneration or to 3 months' ordinary time remuneration.

[55] Mr Cain has calculated from the wage and time records for the 29 weeks from 9 April 2017 to 29 October 2017 that Ms Stevenson received \$25,131.87 gross. He has divided that gross amount by 29 weeks to achieve an average gross weekly pay of \$866.62.

[56] I have checked the calculation and agree that the average weekly pay for that period of 29 weeks is \$886.62.

[57] Subject to any issue of contribution Ms Stevenson-Wright is entitled to reimbursement of lost wages in the sum of \$11,266.01 gross being \$886.62 multiplied by 13 weeks.

#### *Compensation*

[58] Ms Stevenson-Wright seeks the sum of \$20,000 for compensation.

[59] I accept that she was particularly vulnerable at the time of her dismissal as it followed the unexpected death of her father with whom she had a close relationship. The dismissal was then a shock and she said that it was embarrassing to explain her circumstances to those who asked her what she was doing. Ms Stevenson-Wright describes having no accommodation, no job prospects and no financial resources and that all areas of her life were impacted negatively. She was left to rely on the kindness of others on the Chathams for the basics of life and became as she describes it depressed for the first time in her life and was not able to function well.

[60] I have taken into account and weigh that Ms Stevenson-Wright could have experienced accommodation issues even if she had not been dismissed. Her room at the Hotel had been given to another staff member. I do not find the responsibility for that necessarily lies with the Hotel for reasons set out in more detail under an assessment of contribution.

[61] When Ms Stevenson-Wright returned to New Zealand there was also a period of uncertainty and insecurity that set her back financially from the position she had been in when she was employed at the Hotel. It took a considerable period for her to financially get back on track.

[62] Subject to the issue of contribution and in line with awards in other cases I consider an appropriate award for compensation is the sum of \$15,000.

### *Contribution*

[63] The Authority is required under s 124 of the Act, where it has determined an employee has a personal grievance, to consider the extent to which the actions of the employee contributed towards the situation giving rise to the grievance. If it is concluded they did then the Authority should reduce the remedies that would otherwise have been awarded.

[64] The focus for any assessment about contribution and blameworthy conduct falls to the period after the authorised bereavement leave had ended on 31 October 2017. Leave was not authorised for Ms Stevenson-Wright to stay on in New Zealand for her father's celebration of life on 5 November 2017. Part of her reasoning in staying on was dissatisfaction with how Ms Croon had interacted with her leading up to the bereavement and that she had asked her to come back to work a day before the leave formally ended. She recorded that in a message to Ms Croon on 30 October as part of the explanation why after heading to the airport to return back to the Chatham Islands that day she had decided against it.

[65] By email on 1 November 2017 Ms Croon advised that she could not authorise another week's leave and she had rostered Ms Stevenson-Wright on for 4 November 2017. Ms Stevenson-Wright responded by email dated the same date and said that she would be flying back on Wednesday 8 November and would be available for the roster from the Thursday.

[66] Ms Stevenson-Wright messaged Ms Croon on 6 November to check where things stood and whether there was going to be a disciplinary process or if she had been included on the roster. Ms Croon messaged back the following day and stated that when Ms Stevenson-Wright was back she should to come and see her and she would change the roster to fit her in. As at that time there was no suggestion of any disciplinary action. Ms Stevenson-Wright

kept Ms Croon appropriately advised as to her intentions and why she needed to extend leave until 6 November.

[67] There was however a reasonable expectation that Ms Stevenson-Wright would return to the Island on 8 November and be available for work thereafter. She did not return on that date and communication about that is unsatisfactory. Given the frequent messaging and emails up to 6 November the failure to message or email Ms Croon on 8 November to let her know a change of plans is somewhat inexplicable. Ms Stevenson-Wright said that she told a friend to let Ms Croon know what had occurred however that was not ideal and Ms Croon said that she was not advised by anyone about the changed plans. Whilst Ms Stevenson-Wright said that she had a dizzy spell at the airport her message on 20 November 2017 following the meeting makes no mention of that. It refers to Ms Croon not giving any specifics and states that Ms Stevenson-Wright had taken “a couple of days” as she felt pretty unsettled.

[68] I conclude it more likely that the account in the message of 20 November is the correct account. Had Ms Stevenson-Wright not been permitted to fly because she was unwell then I would have expected that to have been her account for those extra days in the 20 November message.

[69] Ms Stevenson-Wright had given Ms Croon a specific date of return on 8 November. When she did arrive on the Island on 10 November she went to the Hotel. It is understandable that she would not wish to disturb Ms Croon but left it to another person to tell Ms Croon that she had visited the Hotel instead of taking responsibility herself to do so. She could have left a note that evening to be passed on. I accept Wi-Fi and phone coverage is not how it is in New Zealand. Communication is much more difficult and I do not take into account the short delay after the 10 November 2017 visit before getting back in touch.

[70] Ms Stevenson-Wright had her friends remove her belongings from her room at the Hotel when she took the extra week’s unauthorised leave. She said that she did this because she was aware that items of property had been withheld from other staff members in the past in similar circumstances. That was an action that Ms Croon considered supported Ms Stevenson-Wright was not going to return and increased the importance of communication about changed plans.

[71] I conclude some blameworthy conduct of the part of Ms Stevenson-Wright in not actively communicating with Ms Croon about a change to stated intentions in circumstances where leave was not authorised. Ms Croon had a business to run and needed to know when she could roster staff. She was not told directly by Ms Stevenson-Wright nor she said from anyone else where Ms Stevenson-Wright was between 8 and 12 November 2017 and if or when she intended to return to work. She concluded she was a “no show.” There is a causal link between that lack of communication and the circumstances that gave rise to dismissal.

[72] With that has to be weighed the nature of the leave. It was bereavement leave and not a vacation. Ms Croon had authorised two weeks leave which was generous. I do weigh the shock Ms Stevenson-Wright experienced with the sudden death of her father, the fact that she could not be with him when he died and the impact of that on her thought processes throughout this period including a desire to be with family for support. Account has to be taken that the Hotel failed also to be active and communicative particularly on 20 November 2017 in circumstances where I am satisfied from the evidence there was ongoing work available for Ms Stevenson-Wright at the Hotel.

[73] I conclude a reduction of 20% for contribution is appropriate in all the circumstances.

### **Orders made**

[74] Taking contribution into account I order Hotel Chathams Limited to pay to Kylie Stevenson-Wright the sum of \$9,012.80 gross being reimbursement of lost wages under s 123(1)(b)(i) of the Act 2000.

[75] Taking contribution into account I order Hotel Chathams Limited to pay to Kylie Stevenson-Wright the sum of \$12,000 without deduction being compensation under s 123(1)(c)(i) of the Act.

**Costs**

[76] I reserve the issue of costs. Mr Cain has until 11 June 2020 to lodge and serve submissions as to costs and Ms Croon has until 25 June 2020 to lodge and serve submissions in reply.

Helen Doyle  
Member of the Employment Relations Authority