

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

[2014] NZERA Christchurch 177  
5450696

BETWEEN            NIGEL ROSS TAYLOR  
                                 Applicant  
  
AND                    FERNWOOD DAIRIES  
                                 LIMITED  
                                 Respondent

Member of Authority:    M B Loftus  
  
Representatives:        Gary Clarke, Counsel for Applicant  
                                 Tim Mackenzie, Counsel for Respondent  
  
Investigation Meeting:    7 November 2014 at Christchurch  
  
Determination:            7 November 2014

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**DETERMINATION OF THE AUTHORITY**

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[1]    The applicant, Nigel Taylor, claims he was unjustifiably dismissed by the respondent, Fernwood Dairies Limited (Fernwood), on or about 17 November 2013.

[2]    Mr Taylor also claims he is owed wages which remained unpaid upon termination.

[3]    Fernwood denies it dismissed Mr Taylor at the time he alleges. It does, however, concede it dismissed him at a later date but contends the dismissal was justified. Fernwood did not respond to the wage claim on the grounds it was insufficiently particularised. Finally it lodged a significant counterclaim in respect to various losses it attributes to Mr Taylor's failure to exercise proper care and skill.

[4]    Notwithstanding the initial claims both parties then exhibited a reluctance to advance proceedings and while both seek finality it appears neither is willing to withdraw while the other's claim remains live.

[5] In the circumstances the best way to advance matters was to schedule an investigation meeting.

[6] A notice of hearing was duly forwarded to the address for service provided by each party and each has acknowledged awareness of the scheduling.

[7] Contained therein is advice that if an applicant does not attend the investigation meeting the claim may be dismissed.

[8] Neither party attended the investigation meeting though given the circumstances and comments Counsel made during various telephone conferences that is not a surprise.

[9] Each is an applicant in its own right but the absence of both means there is no evidence in support of either claim or counterclaim. In the circumstances, and given the advice in the notice of hearing, I dismiss both applications for want of evidence. For similar reasons, and again given Counsel's comments, I conclude costs should lie where they fall.

**Conclusion**

[10] Mr Taylor's claims are dismissed.

[11] Fernwood's counter claim is dismissed.

[12] Costs shall lie where they fall.

M B Loftus  
Member of the Employment Relations Authority