

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Lynne McLennan (Applicant)

AND South Taranaki Free Kindergarten Association Inc for and on behalf
of the Avon Kindergarten (Respondent)

REPRESENTATIVES Barry Henderson, for Applicant
Caroline McLorinan, for Respondent

MEMBER OF AUTHORITY P R Stapp

INVESTIGATION MEETING New Plymouth, 30 and 31 March 2006

DATE OF DETERMINATION 24 May 2006

DETERMINATION OF THE AUTHORITY

Employment relationship problem

1. Lynne McLennan claims that a final warning and suspension were unjustified actions disadvantaging her in her employment and that her dismissal was unjustified. She is seeking the withdrawal of a final written warning and to be reinstated to her position as the Head Teacher of Avon Kindergarten. The South Taranaki Free Kindergarten Association Inc (“STFKA” or the association) is resisting Ms McLennan’s reinstatement and denies her claims. Both parties are claiming costs.

Background

2. Ms McLennan commenced her employment at Avon Kindergarten (the kindergarten) in 1994 as the Head Teacher. She is a registered teacher, Dip Tchg and BE.
3. Performance appraisals occurred during Ms McLennan’s employment. By August 2003, there were a number of problems arising between the parties in regard to their objectives, practices and responsibilities in Ms McLennan’s work at the kindergarten, and in her relationship with the senior teacher, Dawn Osman. On 22 August 2003, a framework of requirements was presented to Ms McLennan by Ms Osman.

4. On 11 December 2003 assistance from the Department of Labour mediation services was sought. Ms McLennan was represented by the NZEI. An agreement was signed off by Ms McLennan and Ms Osman.

First disciplinary matter and warning

5. On 26 November 2004, Ms McLennan was requested by the Association to attend a disciplinary meeting on three allegations. These were:
 - *That you may have breached the South Taranaki Free Kindergarten Association's Media and Public Relations policy by talking to a journalist from the Stratford Press without the prior authorisation of the South Taranaki Free Kindergarten Association;*
 - *That you may have used threatening and/or inappropriate behaviour towards Nola McMillan during a conversation on 17 November 2004 which is contrary to her job description for Head Teacher under the headings Nature and scope of the position, Equity, communication and team responsibilities;*
 - *That you may have breached the signed framework agreement (signed by both you and Dawn Osman) during your performance appraisal with Dawn Osman on 18 November 2004.*
6. Ms McLennan was put on notice that the allegations were serious. She was provided with copies of the media policy, a letter of complaint from Nola McMillan, a head teacher from another kindergarten, a letter from Ms Osman to the staffing committee and the signed framework agreement. Ms McLennan was informed of the possibility of disciplinary action and that she could be dismissed. She was advised of her right to have a representative present.
7. On 7 December 2004 a disciplinary meeting was held. The applicant was represented by the NZEI. Also in attendance from STFKA were: Karen Nicholas, the Executive Officer, Andrew Wood, the President, and Diana Koorts, an employer's representative.
8. At the meeting Ms McLennan was provided with further documentation involving statements from Fiona Parkinson, Judith Nowotarski and Julie Taylor, who were witnesses in regard to the Nola McMillan allegation, and an excerpt from appraisal meeting notes provided by Dawn Osman.
9. During the meeting the applicant's representative conceded that the media policy had been breached by the applicant, although the applicant now is challenging that. During an adjournment, STFKA considered the allegations and reached a decision to issue a warning that was conveyed to the applicant when the meeting reconvened. It found that the applicant

had admitted breaching the media policy and that on the balance of probabilities found that the second allegation, in regard to the threatening and/or inappropriate behaviour towards Nola McMillan, happened because Ms McMillan was believed and there were witnesses. The third matter was dropped.

10. The applicant immediately asked if she could appeal the decision, and was informed that she could raise any further matters for consideration then and there, and another break was taken by the parties. During this break, Ms McLennan required medical attention. An ambulance was called and Ms McLennan was taken to Hawera Hospital for medical attention, from where she was later discharged. Ms McLennan was issued with a medical certificate as unfit to attend any official meetings from 8 December 2004 and for at least two weeks (document 41).
11. A final warning was confirmed in a letter signed by Karen Nicholas (SOP 1) on 9 December 2004.
12. The applicant sought legal advice, and through her new representative, she raised her first personal grievance disputing the warning.

Teachers' registration

13. STFKA did not make a mandatory report to the New Zealand Teachers' Council on the disciplinary action that resulted in the final warning of 7 December 2004. However, Ms McLennan's registration became an issue because it required renewal. Ms McLennan applied to renew her practising certificate but her application was not endorsed by the association. The reasons given by the association were:

"We have to advise that we are unable to endorse renewal of teacher registration for Lynne McLennan (section F) at this time ... There is an outstanding disciplinary matter which is currently active: Lynne received a final written warning on 9 December 2004 which will remain on her personal file for 12 months".

14. The New Zealand Teachers' Council renewed Ms McLennan's teacher registration on 10 June 2005. STFKA had some difficulty with this decision because it says it had not been involved directly in the process followed by the Council in reaching a decision, except to provide information. Although it has not taken any action, it says that it is concerned enough to contact the Council further regarding the matter, although it has not done so at this stage.

New Complaints laid by co-workers

15. On 8 and 14 September 2005, Carol Duncan, a relieving teacher at Avon Kindergarten, and Trina Murray, a support worker employed by STFKA for 12 hours per week and a support worker for Group Special Education (“GSE”) at Avon Kindergarten for three hours per week, complained to Ms Nicholas about Ms McLennan’s behaviour and practices at the kindergarten. Ms Duncan and Ms Murray prepared written statements that diarised events involving the applicant over a number of days, and were assisted in typing their complaints by Ms Nicholas. They signed their statements and Ms Nicholas considered that the complaints were serious enough to take further action on them.
16. On 16 September 2005, STFKA suspended Ms McLennan on the grounds that it had reason to believe, from those statements that the welfare and safety of the kindergarten children and/or another kindergarten employee at the kindergarten warranted an immediate suspension on pay in accordance with clause 6.5 of the relevant collective employment agreement. This clause provides as follows:

“6.5 Suspension

- (a) If an allegation is deemed sufficiently serious, a teacher may be either suspended with or without pay, or transferred temporarily to other duties.*
- (b) The Employer shall not suspend a teacher without first allowing a teacher a reasonable opportunity to make submissions about the allegations and whether suspension is appropriate. However, where the Employer is satisfied the welfare and safety in any kindergarten child or another kindergarten employee warrants it, immediate suspension may occur.*
- (c) The Employer shall use its best endeavours to ensure that the period of suspension is kept to the minimum possible time consistent with ensuring that the allegations are properly investigated.*
- (d) If the allegations that led to a suspension is without substance the teacher shall be reinstated effective from the date of suspension.”*

17. The allegations from the statements, which included many diarised issues and detail were distilled to two matters by the association, which I summarise as follows:
- That Ms McLennan allegedly forcibly and inappropriately handled child N. The child had apparently bitten another child. The allegation was that Ms McLennan rushed outside raising her voice, grabbed N, pulled her inside and forcefully placed her on the sofa and made the comment that “You are not going to do that you know better. You stay there you naughty girl, no don’t move. You are a very naughty girl. You stay, don’t move, I’ll fix you, you’re not getting away with that.” Allegedly she also pointed her finger in the child’s face.

- That Ms McLennan allowed her dog to be at the kindergarten with her when she was working on a regular basis in breach of Regulation 24 of the Early Childhood Centre Regulations. She was allegedly responsible for the dog faeces found on the grounds and the effect that the dog had caused a rabbit to mess the grounds, and that the dog was not restrained amongst the children.
18. On 12 October 2005 there was a meeting where the applicant was represented. Her support people were also present. She was on notice that the allegations were of such a serious nature that her employment was in jeopardy.
 19. Following the applicant's opportunity to respond to the allegations, the meeting was adjourned for further investigations. The decision was also taken that Ms McLennan's suspension would be extended to 28 October 2005 although Ms McLennan and her representative objected. She was informed of this in writing by letter dated 13 October 2005. Ms McLennan was given an opportunity to comment on the extended suspension but no reasons were advanced as to why it should not continue (p.12 of document 13 in the evidence of Diana Koorts).
 20. Diana Koorts subsequently interviewed Ms Duncan on 13 October 2005 and Trina Murray on 14 October 2005, by telephone. Their telephone discussions involved, subsequently, a record of investigation being compiled by Ms Koorts (documents 6 and 7 in the respondent's bundle and the applicant's reply at documents 14 and 16). Confirmation of the accuracy of the interview notes was not obtained from Ms Duncan and Ms Murray by Ms Koorts. Indeed it appears there are three versions of the notes (the last being found by Ms Koorts on her file during the Authority's investigation meeting). Ms Duncan resiled from some of the comments in the notes including the comment, "*In fact all the children were frightened of her*". Advice was sought from the Ministry of Education the Early Childhood regulations on having dogs in the centre and provided to Ms McLennan and her representative: see below. Also Glen Hansen, the association's Vice President carried out an inspection of the grounds and fences at the Kindergarten but did not find anything to assist.
 21. The letter of further suspension dated 13 October 2005 informed the applicant that Ms Duncan did not wish to be contacted by her, and that Trina Murray was willing to receive questions in writing from her or her representative. An opportunity was provided for Ms McLennan to forward any questions for Ms Murray to the association, which would pass them on. The applicant was again advised that the allegations were of such a serious nature that her employment was in jeopardy.

22. Ms McLennan's position was conveyed by her representative in a letter dated 26 October 2005 to the association. That letter emphatically denied the allegations and explained her position in regard to child N and raised a further issue about how the child was being managed by one of the complainants. Ms McLennan's position regarding her dog was that there were no rules to prevent dogs being taken to the kindergarten and that she had previously had a dog at the kindergarten.
23. On 25 October 2005 the association's representative wrote a letter to the applicant's representative enclosing the following documents:
- A statement from Carol Duncan (interview notes);
 - A statement from Trina Murray (interview notes);
 - Notes from the discussion that Karen Nicholas had with Melody Nightingale from the Ministry of Education;
 - An email from Melody Nightingale confirming the discussion;
 - Notes regarding discussions on dogs in kindergartens;
 - Questions that were put to Dawn Osmon and her signed statement which included the STFKA GSE support response sheet;
 - Notes from the first disciplinary meeting.
24. On 27 October there was another meeting. This was apparently a difficult meeting. This is because of the number of support people who attended on behalf of Ms McLennan, including concerned parents. Ms McLennan was formally represented by her lawyer. One issue involved the association believing the allegations made by Carol Duncan and Trina Murray. Secondly, there was the issue of the dog being taken to the kindergarten by Ms McLennan. Ms McLennan admitted that she had taken her dog to the kindergarten but there was a difference on the amount of time during the week that the dog was present at the kindergarten and the time it was in Ms McLennan's car or restrained. The meeting was adjourned for the association to consider its position.
25. The meeting was reconvened and involved a discussion with child N's guardian and Ms McLennan's style of discipline. Following this session, the meeting was again adjourned for the association to consider the explanations. The association decided that the alleged ill

treatment of the child had occurred. It found Ms McLennan's version of events was inconsistent across two investigation meetings. The association had regard to her denial and attacks on those who had made the statements, her response and that she did not provide a credible alternative version of the events. It was concluded that she did not meet the requirements of STFKA's policies and Early Childhood Regulations.

26. STFKA considered that Ms McLennan had admitted taking her dog to the kindergarten and considered that this was clearly a breach of the Early Childhood Regulations and STFKA's health and safety policies.
27. STFKA viewed these matters as serious misconduct and it decided to dismiss her and give her the choice of a month's salary in lieu of notice. Ms McLennan did not respond.
28. On 27 October Ms McLennan was advised that the association's decision was to dismiss her immediately or she could have a month's salary in lieu of notice if she wished. She was not required or expected to work at the kindergarten during that time. Ms McLennan declined to respond. Diana Koorts confirmed that she would be paid one month's notice. She was effectively dismissed from her employment by the respondent's actions.
29. On 28 October 2005 a letter of termination of employment was provided to the applicant. It reads as follows:

"Thank you for attending the disciplinary meeting held on 12 October 2005 and the follow up disciplinary meeting held yesterday at the TSB Chambers, Miranda Street, Stratford.

That meeting was attended by the following parties: yourself, your lawyer Barry Henderson, your support people Judy Walls, Trevor James, Raewyn Preston, Diana Marsh, Eddy Reid and Sandra Howes, and representatives of the South Taranaki Kindergarten Association, and our representative, Diana Koorts.

The disciplinary meetings were regarding the allegations listed in the letter of 16 September 2005.

We investigated these allegations and have given consideration to your explanations. The outcome of this disciplinary process was that we decided that the following allegations:

- (a) *That you have inappropriately treated child N (as per statements made by Trina Murray and Carol Duncan); and*
- (b) *That you are allowing your dog to be at the kindergarten with you when you are working on a regular basis which is in breach of Regulation 24 of the Early Childhood Care Regulations and other policies.*

have been established and that your explanations to the above events were not acceptable. This behaviour is deemed to be Serious Misconduct in accordance with the following documents:

- *The Early Childhood Centres Regulations (clauses 33 and 34);*
- *South Taranaki Free Kindergarten Association Code of Conduct;*
- *Your job description;*
- *The professional standards for kindergarten teachers;*
- *New Zealand Teachers' Council Code of Conduct;*
- *Early Childhood Centres Regulations clauses 24(1)(a) and (c) and 24(1)(k) and (o);*
- *South Taranaki Free Kindergarten Association's Positive Guidance – Severe behavioural guidelines and health and safety policies.*

As a result of our findings, we felt that we had no alternative but to terminate your employment. You were given the opportunity to comment on the finding and the proposed course of action of termination with or without notice. However you and your representative declined to comment further. You and your representative left this decision to us and we have therefore terminated your employment on notice. We do not require you to work out your notice and will pay you one month in lieu of notice.

We have requested that you return your keys to Avon Kindergarten and also that we arrange a suitable time and date on which you are able to collect any of your private property which is still in the kindergarten's premises. We suggest 1.30pm on Friday 4 November 2005, please confirm if this is suitable.

Enclosed please find our cheque for \$3,767.15 which includes any outstanding holiday pay that is owed to you.

As discussed we advise that we will be writing to parents of children who attend the kindergarten to advise that you will not be returning to work there. This is standard practice when a teacher does not remain in employment with us. You declined to have input on this letter and we therefore advise you that we will not be giving any reasons why you will no longer be working at Avon Kindergarten.

Should you have any queries regarding this matter, please contact us."

30. Ms McLennan's representative then raised a further grievance on her behalf that she had been unjustifiably suspended and dismissed from her employment. Subsequently, the parties had difficulties in making arrangements for the return of the applicant's personal property. These items were sent to her by courier post on 18 November 2005 with notes kept of the items and the receipt for the courier charge. There are outstanding problems relating to the return of Ms McLennan's personal property still to be resolved.

The law

31. The matters are to be decided using the test under s.103A of the Employment Relations Act. The three grievances, i.e. the warning, the suspension and the dismissal, all occurred after 1 December 2004.
32. There are disputes between the parties, firstly in regard to the breach of the media policy and the allegation of threatening behaviour towards Nola McMillan. Secondly there is a factual dispute regarding Ms McLennan's denial of any inappropriate action or behaviour in disciplining child N, and thirdly what the circumstances were about her dog being at the Kindergarten. These matters are relevant these are matters to be decided on the balance of probabilities and for me to consider what a fair and reasonable employer would conclude in all the circumstances on the information available to it at the time, and whether the same employer would have come to the decision to dismiss the applicant, and whether the allegations, if proven, amounted to serious misconduct. It is not for the Authority to substitute its opinion for that of the employer but to scrutinise the employer's conduct and assess that the employer acted fairly in all of the circumstances.
33. In considering the applicant's three grievances I am also obliged to consider how to resolve the employment relationship problem on the very much contested claim for reinstatement, and claims for lost wages and compensation.

Written warning on 7 December 2004

34. I find that the disciplinary process was fair on the issuing of the warning. The allegations were put to the applicant for comment and explanation including being given the appropriate media policy and the statements and telling Ms McLennan that there were witnesses in regard to the Nola McMillan matter. She was represented by the NZEI. At the time it was open to a fair and reasonable employer to accept that the applicant had acknowledged she had breached the media policy because the applicant was represented at the time. The respondent explained its reasoning for preferring the information from Fiona Parkinson, Judith Nowotarski, Julie Taylor, who were witnesses to the alleged event, and Nola McMillan, who complained about the applicant's behaviour towards her. In addition the association had written statements, which it could refer to, and Ms McLennan was given the opportunity to comment on them. The third allegation was dismissed. The disciplinary action was a lesser penalty than dismissal, which was open to the employer.

The suspension

35. I find that the suspension was justified because the allegations were serious, which a fair and reasonable employer would be expected to investigate.
36. The suspension of Ms McLennan was on the grounds that the association had reason to believe, from statements it had received from Carol Duncan and Trina Murray, that the welfare and safety of the kindergarten children and/or another kindergarten employee at the kindergarten warranted an immediate suspension on pay in accordance with clause 6.5 of the relevant collective employment agreement. The respondent was not in breach of the suspension provision under the employment agreement and had grounds to act.

The dismissal

37. This is the major problem between the parties. Underpinning the decision taken by the employer has been, over time, an increasing problem in the relationship between the applicant and Ms Osman about the applicant's performance. The parties had addressed this in mediation and had produced a protocol to move forward, albeit one that has been fraught with on-going difficulties. I am satisfied this had nothing directly to do with the dismissal, but find that the wider deteriorating relationship between the association and Ms McLennan over her performance, has influenced the respondent's decision-making. However, no performance management process was put in place over any problems.
38. The association relied upon Ms Duncan and Ms Murray and their statements. In addition it relied upon Diana Koorts' interviews with Ms Duncan on 13 October 2005 and Trina Murray on 14 October 2005 that occurred by telephone. It also relied on Ms Koorts' records of investigation, the accuracy of which was not confirmed by Ms Duncan and Ms Murray. Indeed another version of the notes was referred to by Ms Koorts during the Authority's investigation meeting to affect the reliability of the conclusion reached by the association. The changes referred to in the notes may not seem substantial but are significant to influence an outcome since they have been contested by the applicant, who denied the allegations made against her and that Ms Duncan did not agree that she made the comment; "*In fact all the children were frightened of her*". A fair and reasonable employer would have ensured the accuracy of the interview notes.
39. I note also that Ms Nicholas helped Ms Duncan and Ms Murray type up their statements into complaints. I am sure that Ms Nicholas thought that she was assisting them, and did no more

than that, but the impression it leaves is that she has jeopardised the objectivity required of her in respect of the applicant.

40. There was no further enquiry about the welfare and safety of another kindergarten employee that was part of the reasoning for the suspension and it seems to have been ignored. The issue of the child's management plan has also been raised but in the evidence came across as an obscure issue.
41. The respondent has relied upon credibility in regard to what actually happened with Child N. In deciding against the applicant the association has relied on the complainants (Ms Duncan and Ms Murray) and that they had nothing to gain personally from raising their concerns. Also the association considered Ms McLennan's inconsistent explanation of events across two investigation meetings (about what she said and did to child N: allegedly forcibly handling the child and pointing her finger at the child and saying she was naughty), her denial and attacks on those who had made the statements, and on her response, and that she did not provide a credible alternative version of the events. In the circumstances these findings were not adequate. The association's analysis has strayed from how a fair and reasonable employer would have viewed the matter, considering the differences on the application of professional standards and acceptable performance and having regard to the applicant's explanation and denial of any inappropriate treatment towards the child. Thus, I hold that a fair and reasonable employer would not have concluded that the allegations amounted to serious misconduct.
42. This is especially so when it can clearly be seen that that matter involved an argument about the proper way to manage the child and confusion about the child's management plan. It was accepted by the parties that the child was difficult. Input was received from the child's parent. The association seems to have a difference of opinion about the way the parent might bring the child up and what the association considered was the best professional practice for the child, and that the parent might have misunderstood what was happening. Because there were concerns about Ms McLennan's performance and the existence of a management plan for the child, and given McLennan was the senior teacher, and the two complainants were a relieving and a support teacher respectively and they had a range of issues about the applicant in their statements, a fair and reasonable employer would have approached the issues as performance matters rather than follow a course of determining serious misconduct.
43. Since there were a number of diarised issues made by Ms Duncan and Ms Murray they had a problem with the applicant over a short period of time in regard to her performance of her

duties. The association's decision to isolate two of the matters was selective, and therefore, lacking in fairness, for a matter that should have involved the applicant's general standard of performance and duties.

44. Another factor clouding the association's objectivity has been its apparent preoccupation with the teacher registration decision involving the applicant and the Teachers' Council.
45. The decision in regard to Ms McLennan taking her dog to the kindergarten as a breach of regulations and policies for serious misconduct was fundamentally flawed, I hold. This is because, whilst the association has relied upon it being a breach of regulations and policies (primarily based on whether or not the dog was leashed and her being responsible for dog faeces on the grounds), there is evidence of her dog previously being taken to the kindergarten and condoned. With conflicting practices and ambiguity about the policies applying and where there has been no determination that the applicant was acting deliberately or wilfully contrary to the regulations and policies, it was unreasonable of the association to rely on this matter as serious misconduct in dismissing the applicant. A fair and reasonable employer would have dealt with it amongst the other range of performance issues.
46. There was no incident as such considered by the association to support serious misconduct and in any event the situation where dog faeces were found on the ground was cleaned up by another person, to make the environment safe, as part of their duties. Mr Hansen investigated if other dogs could have got on to the property (refer to written statement prepared by Mr Hansen for the Authority's investigation). I hold that his conclusion that other dogs did not get on the grounds was inconclusive and did not involve the applicant's or her representative's input at the time.
47. The two reasons for dismissal were not treated separately by the association, and being relied upon together, do not justify the dismissal, especially given the matter of the dog.
48. The applicant has a personal grievance, I hold. Her dismissal was unjustified.
49. The serious question of whether or not Ms McLennan should be reinstated arises. Under the Act reinstatement is the primary remedy. The applicant has lost a senior position that she may find, I accept, difficult to replace at that level. Moreover she has been employed in the position for a number of years. The relationship between her and her employer has been fraught for some time involving disciplinary matters and performance management. The applicant was on a final warning for her personal dealings with some people and complying with the association's policies. Those matters caused a conflict in the employment

relationship. But I note that the applicant obviously enjoys the support of other people, including parents.

50. The applicant as the senior teacher should have been astute enough to have avoided any criticism arising from her colleagues about her handling of a child with a behavioural problem in the kindergarten. She should also have avoided any conflict about taking her dog to work by better communication with her employer, so as to avoid any concerns that her employer might properly have about children's health and safety. She is in part to blame for the situation giving rise to the personal grievance. The applicant's approach to dealing with child N and taking her dog to work have given rise to this grievance. I assess Ms McLennan's contribution as 1/3. It is not enough to prevent reinstatement.
51. There are undoubtedly difficulties existing between Ms McLennan and Ms Osman. Ms Osman conceded she should do more to be proactive in performance management. The applicant cannot be held responsible for that shortcoming.
52. The applicant says that she feels the employer has been involved with "an unbelievable breach of trust", "misconstrued facts", and "engaged upon a campaign to deliberately jeopardise [her] teaching career" (written reply). Also she says that her employment involved a nightmare where staff and support workers were "encouraged" to act against her (written statement). The evidence was not sufficient to support the claim that there had been a conspiracy.
53. The applicant is seriously pursuing reinstatement and believes that the employment relationship can work despite the opinions and reasoning of her employer that she is not wanted back. She cannot be blamed for all the antipathy that exists with her employer, although there are contributing issues, arising out of her performance and her opinions about her employer that the applicant will have to reconcile with reinstatement. Her employer will have to manage the situation in a professional way, including, if it proves necessary, performance management. The situation has been made worse since the other teacher at Avon has given evidence against Ms McLennan, who Ms McLennan summonsed. I observed that the teacher concerned, seemed to be relieved of a burden that she had been covering up in her relationship with Ms McLennan. This is another problem the association will need to manage and Ms McLennan will have to take a professional, proper and responsible lead in regard to it. She will also need to be mindful that the employer has a right to manage her performance and any difficulties/obstacles that she places in the way of this could lead to further problems that I am sure she will want to avoid.

54. Therefore, I direct that the South Taranaki Free Kindergarten Association Inc for and on behalf of the Avon Kindergarten reinstate Lynne McLennan to her position as Senior Teacher at the Avon Kindergarten.
55. Ms McLennan is entitled to compensation of \$10,000 for injury to her feelings. She is also entitled to lost wages from the date of dismissal to the date of the reinstatement taking effect. The notice pay and earnings the applicant received are to be deducted. Also, both the compensation and wages are to be reduced by one third. Leave is granted to return to the Authority if there is any disagreement on the calculations.
56. I further would recommend to the parties that reinstatement be held up for four weeks, or such mutually agreed shorter time, so that the parties and their representatives can cooperate on the necessary arrangements to implement the determination and to undertake further mediation in respect of their broader employment relationship problem.
57. Costs are reserved.

P R Stapp
Member of Employment Relations Authority