

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

CA 118/08  
5116643

BETWEEN

LEE MANSON  
Applicant

AND

CHRISTOPHER FORD and  
CHARMAINE PATTISON t/a  
C&C DAILY FREIGHT  
Respondent

Member of Authority: James Crichton  
Representatives: Phil Butler, Advocate for Applicant  
No appearance by Respondent  
Investigation Meeting: 11 August 2008 at Christchurch  
Determination: 13 August 2008

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] The applicant (Mr Manson) alleges that he was unjustifiably dismissed by the Christopher Ford and Charmaine Pattison (the respondent). Despite all proper efforts by the Authority to have the respondent engage in its process, the respondent has refused to take any steps in the matter, has failed to file a statement in reply and failed to appear at the investigation meeting.

[2] Mr Manson was employed as a truck driver by the respondent on 8 January 2007. There is an employment agreement signed by the parties dated the day of Mr Manson's commencement of employment.

[3] Amongst other things, that employment agreement purports to be temporary *until further notice*. There is also a trial period of three months provided for in the agreement.

[4] Mr Manson was dismissed from his employment on 21 September 2007 by way of a note left on the front door of his home. The note, which was provided in evidence before the Authority, reads as follows: *lee we have been to pick up truck not happy at all lee you no longer have a job with us and you are to pay money owing to Smudge thanks.*

[5] The evidence is clear that Mr Manson made a number of attempts to contact his employer after the dismissal but his calls were ignored and when Mr Manson sought advocacy assistance, the intervention of his advocate was also ignored by the respondent.

[6] Mr Manson gave evidence (which I accept) that he had no idea why he was dismissed and the respondent failed to provide wage and attendance records, failed to provide an explanation for the dismissal, failed to attend mediation and failed to engage in any way with the Authority's process.

[7] When the matter proceeded to an investigation meeting in Christchurch, the applicant and his advocate were present at the appointed time but the respondent did not appear.

[8] After a decent interval, I determined to proceed to deal with the matter and, having heard the evidence of Mr Manson, I took a brief adjournment and issued an oral decision which this determination now confirms.

### **Mr Manson's evidence**

[9] Mr Manson impressed me as an honourable and truthful man and he gave his evidence carefully and thoughtfully.

[10] It was clear from his evidence that he had no idea at all why he was dismissed and, as I have already made clear, his various attempts to obtain an explanation fell upon deaf ears.

[11] As well as the undoubted shock of the dismissal, which Mr Manson spoke very eloquently about, his evidence (which I accept) was that he was not paid for the last week of his employment.

[12] Mr Manson gave the most graphic evidence of the effects on him of the dismissal. For the first time in his life he developed hypertension and he had a bout of

severe depression with suicidal ideation which echoed an earlier period of severe depression some 20 years previously. In addition, Mr Manson, who suffers from colitis, had that condition exacerbated by the consequences of the stress of losing his position and he told me that the only thing that kept him going was his three-year-old stepson to whom he is obviously devoted.

[13] Mr Manson is particularly baffled by the fact of his dismissal because he always understood that he was a good employee, had never had any warnings, had never received anything other than praise from employers (including this one), had no difficulty getting a new position (albeit at a lower rate of pay), and was extremely well regarded by the principal client of the respondent who was pleased to see him return when Mr Manson got an alternative position with another trucking company working for the same principal client.

### **Determination**

[14] I am satisfied Mr Manson has been unjustifiably dismissed from his employment by the respondent and that in consequence he has a personal grievance and is entitled to remedies. This must be the inevitable conclusion of a dismissal effected by a note pinned to the employee's door conveying only the fact of the dismissal without any explanation then or subsequently.

[15] Before turning to the application of remedies, I am required by s.124 of the Employment Relations Act 2000 to consider whether any contributory behaviour of Mr Manson played a part in the circumstances giving rise to his personal grievance. I am satisfied on the evidence I heard that there was no such contributory behaviour.

[16] The evidence of compensatable harm as a consequence of this callous dismissal was graphic indeed. I award Mr Manson the sum of \$5,000 as compensation for hurt, humiliation and injury to feelings under s.123(1)(c)(i) of the Employment Relations Act 2000.

[17] Mr Manson has lost wages during the employment amounting to a gross sum of \$756 for a week's work and I direct that sum is to be paid by the respondent to Mr Manson.

[18] Mr Manson has also lost wages since the employment and I direct that the sum of \$5,028 gross be paid to Mr Manson by the respondent pursuant to s.128(3) of the Employment Relations Act 2000.

[19] Mr Manson has incurred legal costs in the pursuit of this matter of \$2,792.52 and given the particular circumstances of this case, I direct that the respondent is to pay the sum of \$1,500 as a contribution to Mr Manson's costs.

[20] Mr Manson has incurred a filing fee of \$70 and I direct that he is to be reimbursed that sum by the respondent as well.

### **Summary**

[21] I have awarded the following remedies to Mr Manson and I direct that the respondent is to pay the following sums to Mr Manson in consequence:

- (a) Compensation of \$5,000 under s.123(1)(c)(i) of the Employment Relations Act 2000;
- (b) Lost wages during the employment of \$756 gross;
- (c) Lost wages post the employment of \$5,028 gross;
- (d) A contribution to legal costs of \$1,500;
- (e) Filing fee of \$70.

James Crichton  
Member of the Employment Relations Authority