

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI  
TE WHANGANUI-A-TARA ROHE**

[2025] NZERA 449  
3335920

|         |  |
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| BETWEEN | ASHLEY BRENNAN<br>Applicant                      |
| AND     | STELLA 2020 LIMITED<br>First Respondent          |
| AND     | STEPHEN HAMISH<br>HUTCHISON<br>Second Respondent |
| AND     | EVANTHIA EVA<br>NICOLETATOS<br>Third Respondent  |

|                        |  |
|------------------------|--|
| Member of Authority:   | Rowan Anderson   |
| Representatives:       | Jake Cheriton, advocate for the Applicant<br>No appearance for the Respondents |
| Investigation Meeting: | 3 July 2025 in Wellington  |
| Submissions:           | At the investigation meeting   |
| Determination:         | 25 July 2025   |

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Ashley Brennan was employed as a Senior Stylist by Stella 2020 Limited (Stella), which traded as Akobe Ngaio.

[2] Ms Brennan has lodged a statement of problem claiming, amongst other things, unjustified dismissal and payment of her contractual notice period.

[3] Stephen Hutchison is currently the sole director of Stella and was a director at all relevant times. Ms Brennan describes him as being the owner of Stella. Ms Nicoletatos was a director of Stella at all relevant times and remained so up until 5

March 2025. Ms Brennan describes her as being the individual Mr Hutchison told her to deal with in the absence of a manager at Akobe Ngaio.

[4] The respondents have not engaged meaningfully with the Authority's investigation.

### **Issues**

[5] The issues identified for investigation and determination are:

- (a) Was Ms Brennan unjustifiably dismissed from her employment?
- (b) Did Stella breach the terms of Ms Brennan's employment by requiring her to perform managerial duties, or alternatively did Stella unjustifiably disadvantage Ms Brennan by the same actions?
- (c) If Ms Brennan was unjustifiably dismissed (or unjustifiably disadvantaged), what remedies should be awarded, including:
  - (i) Compensation for lost wages (in terms of s 123(1)(b) of the Employment Relations Act 2000 (the Act))?
  - (ii) Compensation for humiliation, loss of dignity, and injury to feelings (in terms of s 123(1)(c)(i) of the Act)?
- (d) Is Ms Brennan entitled to any arrears of wages for the period from 30 July 2024 until termination of her employment?
- (e) Is Ms Brennan entitled to payment of a notice period?
- (f) Should either party contribute to the costs of representation (if any) of the other party?

### **The Authority's Investigation**

[6] A case management conference was held on 13 March 2025 at which timetable directions were issued for the lodgement of written witness statements and the convening of an investigation meeting. None of the respondents attended the case management call.

[7] On 13 March 2025, notwithstanding I was already satisfied that the respondents had been served with the relevant documents including the statement of problem, I directed that service could be made on the individual respondents by email. The relevant documents were served again at my direction.

[8] On 18 March 2025, Ms Nicoletatos phoned the Authority. She advised that she had received the documents served by email, made an enquiry as to timeframes for

response, and advised that Stella was to be put into liquidation. No statement in reply has been received from any of the respondents, nor has there been any other meaningful engagement with the Authority. Stella remains listed as active on the Companies Register.

[9] A written witness statement was lodged prior to the investigation meeting from Ms Brennan. She confirmed her evidence at the investigation meeting under affirmation.

[10] An investigation meeting was held in Wellington on 3 July 2025 and proceeded by way of formal proof.

[11] As permitted by s 174E of the Act this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

#### **Further background and evidence**

[12] Ms Brennan says that she was employed as a Senior Stylist after responding to an advertisement. She says she was initially contacted by Ms Nicoletatos and then met with Mr Hutchison for an interview.

[13] Ms Brennan provided the Authority a copy of her signed individual employment agreement (IEA) with Stella. Ms Brennan signed the IEA on 1 May 2024 and she says she commenced work on 14 May 2024. She says she negotiated the terms of employment with Mr Hutchison and the paperwork and other arrangements were made via Ms Nicoletatos. The agreed rate of pay was \$35 per hour.

[14] Ms Brennan worked at Akobe Ngaio for a period of time. A new manager was put in place on or about 26 July 2024. Ms Brennan says that on 30 July 2024 she was told to leave by the new manager who said words to the effect of “Steve, Eva and myself have decided to let you go under the 90 day trial. I don’t know why, I was just told to let you know”. Ms Brennan says she asked for a reason but was told by the manager that she didn’t know and that Ms Brennan “would need to contact them later but you need to grab your stuff and go”.

[15] Ms Brennan did not return to work following the events on 30 July 2024.

[16] The IEA contained a trial period provision, said to commence on 14 May 2024. The trial period provision in the IEA required one weeks' written notice to be given.

[17] Ms Brennan's representative wrote to Ms Nicoletatos on 13 August 2024 raising a personal grievance.

[18] Also on 13 August 2024, Stella, in response, provided Ms Brennan's representative a letter purporting to provide formal notice of termination in accordance with the 90 day trial provision in the IEA and advising she would be paid one weeks pay.

[19] Ms Brennan's statement of problem was lodged in the Authority on 6 November 2024.

### **Was Ms Brennan unjustifiably dismissed from her employment?**

[20] Section 103A of the Act sets out the test for justification. The Authority must consider, on an objective basis, whether Stella's actions, and how it acted, were what a fair and reasonable employer could have done in all of the circumstances at the time the action occurred.<sup>1</sup> Also relevant to the Authority's consideration are the good faith obligations in s 4 of the Act.

[21] Having regard to all of the evidence, including the IEA and pay records provided, I am satisfied that Stella was Ms Brennan's employer as opposed to either of the other respondents. It may be the case, in relation to any breach of employment standards, that the other respondents were involved in any breaches in terms of s 142W of the Act and that they may be liable in the event of any relevant default in payment in terms of 142Y of the Act. However, that is not for determination at this stage.

[22] Such as there was provision for a 90 day trial in the IEA, it was not compliantly invoked. The provision required written notice to be provided and for one weeks' notice to be provided or paid in lieu.

[23] Ms Brennan was not provided written notice at the relevant time. Her evidence is that she was never paid for the relevant notice period. I accept that was the case and the later attempt to provide notice in writing was ineffective. Further, I find Ms Brennan was never paid for the relevant notice period.

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<sup>1</sup> Employment Relations Act 2000, s 103A.

[24] Stella has not lodged a statement in reply and has not provided any evidence of a substantive justification. Such as the invocation of a trial period might be said to be a reason, any reliance on that by Stella is misplaced for the reasons noted above. Further, there is an absence of any evidence indicating that a justifiable process was followed. Ms Brennan was not provided advance notice of any concerns, she was not afforded the opportunity to have a representative present, and she was not provided an opportunity to provide any response prior to the dismissal.

[25] The onus is on Stella to establish a substantive justification for the dismissal, and it has not done so. I accept all of Ms Brennan's evidence and I find that Ms Brennan was dismissed from her employment on 30 July 2024 without justification.

[26] I find that the dismissal was both procedurally and substantively unjustified.

#### **Ms Brennan's breach of contract and unjustified disadvantage claims**

[27] Ms Brennan takes issue with various events during her employment, primarily in relation to being pressured to perform what were arguably managerial duties despite her declining to act in that role. She claims those actions were in breach of contract and that she was unjustifiably disadvantaged in her employment.

[28] I am not satisfied that the claims have been made out. Even if there were a contractual breach, I am not satisfied that any damages flowed from such breach. Further, I am not satisfied that the evidence before the Authority points to Ms Brennan being disadvantaged in her employment by any requests that she perform particular duties.

[29] Ms Brennan's claims of breach of contract and unjustified disadvantage are unsuccessful.

#### **Is Ms Brennan entitled to remedies?**

*Is Ms Brennan entitled to compensation for humiliation, loss of dignity and injury to feelings?*

[30] Ms Brennan's evidence is that she felt disrespected and was impacted by the financial implications of the dismissal. She says she had difficulty sleeping and was embarrassed at having to explain the dismissal to family and friends.

[31] In addition to the above, Ms Brennan gave evidence that she felt a sense of shame, including given the manner in which she was informed of the dismissal and the presence of another staff member in the salon at the time. She was told to collect her belongings without any prior notice and to leave.

[32] I am satisfied that Ms Brennan was adversely impacted by the dismissal and actions of Stella. I accept Ms Brennan's evidence and find that she was significantly impacted as a result of Stella's unjustifiable actions, particularly given the immediate dismissal occurring in the absence of any advance notice or concerns being raised. The manner in which the dismissal took place was unconscionable and understandably it has taken a toll on Ms Brennan.

[33] I order, subject to any reduction on account of contribution, that Stella make payment to Ms Brennan of \$22,000 as compensation for humiliation, loss of dignity, and injury to feelings.

*Is Ms Brennan entitled to compensation for lost wages?*

[34] Ms Brennan's evidence is that she was able to find alternative work relatively soon after the dismissal. Her evidence was that she found that alternative work at some time after approximately one month and that it paid about the same rate of pay.

[35] I am satisfied that Ms Brennan lost wages as a result of her personal grievance and the actions of Stella. Having regard to the proactive steps appropriately taken by Ms Brennan, I find that the loss was limited to five weeks wages. I consider one of those weeks, as detailed further below, is due on account of Ms Brennan's notice period. Taking that into account, I calculate the lost wages on the basis of \$35 per hour, for 31 hours per week, for four weeks. The total of that sum is \$4,340.

[36] Subject to any reduction on account of contribution, I would order Stella to make payment to Ms Brennan of the sum of \$4,340 as compensation for lost wages.

*Contribution*

[37] Section 124 of the Act requires that I consider the extent to which Ms Brennan's actions contributed towards the situation that gave rise to the personal grievance, and if

those actions so require, that I reduce the remedies that would otherwise have been awarded accordingly.<sup>2</sup>

[38] There is no evidence before the Authority indicating that Ms Brennan in any way contributed to the circumstances giving rise to her personal grievance.

[39] I order that Stella make payment to Ms Brennan, within 28 days of this determination, of:

- (a) \$22,000 as compensation for humiliation, loss of dignity, and injury to feelings; and
- (b) \$4,340 as compensation for lost wages.

### **Payment of wages and notice period**

[40] Ms Brennan's statement of problem sought payment of wages for the period between 30 July 2024, the date on which I have found she was dismissed, and that date on which Stella provided written notice of the dismissal, that being 13 August 2024.

[41] I have found that Ms Brennan was unjustifiably dismissed from her employment on 30 July 2024. To the extent she is due any wages for the time that followed, I have dealt with that in terms of compensation for lost wages. She is not otherwise due payment for that period and the claim is unsuccessful.

[42] Ms Brennan was entitled to payment of one week's wages in lieu of notice. That sum was not paid, and I find that the sum of \$1,085 is due to Ms Brennan as payment of her notice period.

### **Other claims**

[43] The Authority's initial list of issues identified an alleged breach of good faith and a question as to any outstanding holiday pay. Having reviewed the material before the Authority, I am not satisfied that, if claimed, those claims have been made out. I decline to make any orders in relation to those issues.

[44] The statement of problem also recorded remedies being sought in the form of a correction of employment records in the form of an acknowledgment from Stella as to procedural failings. Ms Brennan also sought an assurance there would be no retaliation

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<sup>2</sup> Employment Relations Act 2000, s 124.

by the respondents. Those are not matters in relation to which the Authority may make orders, and I decline to do so.

### **Costs**

[45] Ms Brennan was not represented by a paid agent or lawyer and there is no basis for any award of costs relating to such representation.

### **Summary of orders**

[46] Stella 2020 Limited is ordered, within 28 days of this determination, to make payment to Ms Brennan of:

- (a) \$22,000 as compensation for humiliation, loss of dignity, and injury to feelings;
- (b) \$4,340 as compensation for lost wages; and
- (c) \$1,085 as payment for the notice period.

Rowan Anderson  
Member of the Employment Relations Authority