

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2025] NZERA 836
3310481

BETWEEN KAREN CLUNE
Applicant

AND ARTHUR D. RILEY AND
COMPANY LTD
Respondent

Member of Authority: Geoff O’Sullivan

Representatives: Alex Kersjes, advocate for the Applicant
Paul McBride, counsel for the Respondent

Investigation Meeting: 7 May 2025 in Gisborne (and by AVL)

Submissions and other Up to and including 30 September 2025
information received:

Determination: 19 December 2025

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Karen Clune had been employed by Arthur D. Riley and Company Ltd (ADR) as a meter reader since 1 September 2021. Her terms and conditions of employment were contained in a signed individual employment agreement.

[2] She says in March 2023 she had to take a reading from what she termed a “problem property”. The occupants worked nightshifts and the meter was inside the house. There were angry dogs on the property. She saw a note had been left out for her with the purported meter reading on it and she recorded the meter as “read” in ADR’s system. As matters transpired, Ms Clune received a written warning for recording the information this way. This was because it was company policy if a meter was unable to be physically accessed, a “no read” needed to be entered into the system.

This was because ADR was a meter reading service and needed to ensure that if a meter had not been read, that this was noted, so its clients were aware of this.

[3] Ms Clune did not challenge the written warning, although she now says it was unfair.

[4] Ms Clune says that she returned to the property in July and August to read the meter. In the July visit, because she could not gain access, she entered a “no read” as she had been instructed to do.

[5] In the August visit, a Post-it note had been left outside with the meter details on it. Ms Clune did not read the meter because she could not access it. She says she received approval from the Operations Manager to enter the written reading into the system and she took from that approval that she was entitled to rely on the Post-it note. Accordingly, the reading was not flagged as a “no read” and gave the impression that she had read the meter.

[6] Ms Clune returned to the property in November and again found a Post-it note outside purporting to be the reading. She entered the information in as she had done in August. Within minutes of doing so, she received a letter inviting her to an investigation meeting to be held on 27 November 2023 for alleged misconduct.

[7] Ms Clune met with her employer and on 14 December 2023 was issued with an investigation feedback report. This set out the allegations and recorded Ms Clune’s response to them.

[8] The report provided a preliminary view of misconduct and invited Ms Clune to a meeting on 19 December 2023.

[9] On 8 January 2024 Ms Clune received an email advising her that the outcome of the disciplinary process was that misconduct had occurred, and that her employment was being terminated, effective immediately.

[10] Ms Clune says that her dismissal was both substantively and procedurally unfair. She claims:

- (a) Lost wages;
- (b) Compensation for injury to feelings, lost of dignity and hurt and humiliation of \$35,000.00, and costs.

[11] ADR accepts that it dismissed Ms Clune from its employment but says it did so after a full and fair investigation which concluded that Ms Clune had knowingly engaged in conduct incompatible with her employment as a meter reader, namely entering data which purported to be a meter read when the meter had not been read.

The Authority's investigation

[12] The following witnesses provided written statements for the investigation:

- Karen Clune
- Lyndal Brown
- Garth Mickell

[13] Paul West unexpectedly attended the investigation meeting and answered questions under oath or affirmation from the Authority and the parties' representatives. Ms Brown's evidence was given by AVL.

[14] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose with the matter and specified orders made. It has not recorded all evidence and submissions received.

Background

[15] ADR, amongst other things, provides meter reading services. Ms Clune was employed as a meter reader and in her position description she was required to carry out and complete the required duties relating to meter reading. She was required to ensure that all meter reads were completed accurately. Ms Clune acknowledges she signed the employment agreement and confirmed that she was familiar with the policy documents. Her evidence acknowledged that her responsibilities included locating the meters, accurately recording the readings, documenting their locations and providing any additional information or photographs of the meters as required.¹

[16] The Gisborne area in which Ms Clune worked was heavily impacted following Cyclone Gabrielle in February 2023. Some houses were no longer visited by meter readers as it was deemed too dangerous. Ms Clune had been approached by some residents in these impacted areas asking her to come to their properties as their

¹ Evidence statement at paragraph 6.

estimated readings were too high and she obtained approval to do this from ADR. When giving her evidence, Ms Clune said she did not like doing a “no read” because this meant that the power usage would be estimated and at some point down the line it was likely an occupant would receive a higher bill once the meter had been properly read and they could find this distressing.

[17] In respect of her visit to the problem property in March 2023, Ms Clune acknowledged that she had visited the same property during her training. She says she was told it was acceptable to proceed in this manner, from which I took it to mean she was saying she could rely on the occupants recording the meter reading and leaving a note for her.

[18] ADR took issue with Ms Clune’s practice and some time later she was advised that a disciplinary process would follow. On 27 April 2023, she received a first and final written warning for a breach of instruction. She accepted she was reminded that company policy required that if a property could not be accessed, then a “no read” entry needed to be entered into the system. Ms Clune said she believes the warning was unjustified but accepted, however, that she did not challenge it and considered the matter closed and moved on.

[19] Ms Clune returned to the property in July 2023. As had always been the case, she could not gain access to the meter, but this time entered a “no read” into the system as she had been advised to do and as per the instructions she says were given to her following the warning she had received.

[20] In August 2023, Ms Clune visited the property again. On this occasion a Post-it note with the reading was left outside by the occupants. Ms Clune says she contacted the Operations Manager to seek guidance of how to proceed and received approval to enter the written reading into the system. This evidence was not accepted by ADR, who noted that meter readers were in a position of considerable trust and after initial training, worked largely unsupervised. ADR says they investigated the claim that she had been given permission to use a Post-it note but could find no support for the claim. It may be that Ms Clune misunderstood what she was being told because when she referred to her notes which she says she took at the time, they indicate she was told to read the meter. There was no reference to relying on data provided by the occupants.

[21] Ms Clune returned to the property on November 2023 and again entered the meter data from the Post-it note. She did this by uploading a photo of the note as evidence of an actual meter read. She said she did this because she had had prior approval in August 2023.

[22] ADR immediately took issue with Ms Clune's behaviour and shortly thereafter she was notified of an investigation meeting scheduled for 28 October for alleged misconduct. This was postponed several times by Ms Clune but was eventually held on 7 December 2023.

[23] On 13 December 2023, Ms Clune was copied into a forwarded email from the Central Team Leader to Ms Atkins-Gilbert. The original email was 28 March 2023 and it is fair to say it contained negative comments about Ms Clune which appeared to be untested. There is no indication, however, that the email was relied on in a subsequent decision to dismiss Ms Clune.

[24] Ms Clune accepted that ADR raised their concerns with her and that the issue would need to be addressed. She says they referred to the fact that she had been down this road before, no doubt a reference to the written warning she had received earlier.

[25] Ms Clune says on 14 December 2023 she received an investigation feedback report which set out her responses to the allegations and her reasons for believing it was acceptable to enter the information from the Post-it note. She confirmed she understood the preliminary view of the investigation was that serious misconduct had occurred and termination of her employment was proposed. Ms Clune was invited to a further meeting on 19 December 2023. She confirmed that all the feedback she had provided had been included in the report. In her evidence, Ms Clune says she was baffled because she was being accused of serious misconduct for performing the same action she had undertaken in April and August 2023.

[26] Ms Clune says that she did not learn of her dismissal until 11 or 12 January 2024 when she was told by the Operations Manager at ADR. She says she was in complete shock and felt utterly sick. It was only when she spoke to Ms Atkins-Gilbert she realised she had received an email on 8 January with an attachment which she had not opened.

ADR's response

[27] Mr Garth Mickell is the Managing Director of ADR. He has been in the company for some 36 years and although based in Wellington, regularly visited branches of the company throughout New Zealand. Ms Clune worked in the meter reading services division of ADR. Power and gas retailers contract the company to accurately read meters and report to them so that they can accurately bill their customers.

[28] He said bearing in mind the role that ADR played, the power and gas retailers needed to know the amount they would need to bill their customers and accordingly placed heavy reliance on companies like ADR to give them accurate data. That is why if a meter reader could not access and therefore could not read the meter, they needed to enter a "not read", so that the retailer knew there was no reading. He produced a number of documents including the Code of Conduct which, under the heading "Meter Reading" listed a number of tasks a meter reader was expected to undertake. These included "Always read the actual meter, and NEVER guess the reading".

[29] Mr Mickell's evidence was that the prime role of the meter reader was to read the meter. He explained that meter readers are responsible for providing accurate meter reads, which is crucial to the role.

[30] He gave evidence that ADR had policies and processes in place which made it clear that meter readers must actually sight the meter to enter a meter read. If they cannot do so, then a "no read" code must be entered.

[31] He explained that once a meter read is entered on the handheld tablet device carried by meter readers, office staff are prompted to complete validation of the reading. At least five per cent of meter readings are checked as part of their good read validation process.

[32] Although Mr Mickell was not involved in the process, he stated he was aware Ms Clune had put in a reading when she had not sighted the meter. He says this was picked up by the validation process and Ms Clune was instructed to return to the property where she updated the record to "no read no access". He said that Ms Clune was well aware of the need to use a reading only when the meter reading was physically sighted by her. He also noted that apart from the one property, Ms Clune generally

correctly used the system. This, he said, indicated to him that she was well aware of the correct process.

[33] Lyndal Brown also gave evidence. She was employed by ADR as an HR Coordinator until she resigned to travel overseas in April 2024. She gave evidence by AVL that she worked with Michelle Atkins-Gilbert, the HR Manager, who passed away in mid-2024, thus wasn't available to give evidence. She outlined the investigation and disciplinary process followed by ADR and explained that the issues with Ms Clune came to light when instead of a photograph of a meter, the Operations Team reported that there was a photograph of what appeared to be a Post-it note.

[34] Ms Brown attended various meetings and interviews with Ms Clune and assisted Ms Atkins-Gilbert with the process.

[35] She gave evidence as to how the explanations put up by Ms Clune were investigated. This was especially so in dealing with Ms Clune's claim that she had been given permission from a supervisor or coordinator to read the meter by using a Post-it note. She pointed out that they were baffled because Ms Clune was aware of the standard procedure yet had defaulted from it. They could find no evidence to suggest that Ms Clune was given permission to rely on a Post-it note provided by an occupant.

[36] She advised in the December meeting that all the parties agreed that the decision as to whether or not Ms Clune would face dismissal would be conveyed to her by email on 8 January 2024. In answer to questions in cross-examination, and from the Authority, Ms Clune confirmed that understanding. Ms Brown says that the process followed was fair and after careful consideration the decision to terminate Ms Clune's employment was made.

Discussion and analysis

[37] When ADR questioned Ms Clune during the investigation there was no corroborative evidence that she was ever told to enter a read of a meter when she hadn't read a meter. Indeed, under cross-examination it became apparent that the instruction, to the extent it may have been given, was recorded by Ms Clune in her evidence and in reliance on her notes, as "just do read". That certainly couldn't be regarded as an instruction to ignore policy, bearing in mind the previous instruction not to do this and bearing in mind that doing this in the past had resulted in a warning. It was put to Ms

Clune that “just do read” couldn’t be construed as permission to reply on a Post-it note. She reluctantly agreed.

[38] In giving evidence and answering questions in cross-examination, Ms Clune said that people were demanding reads because they were getting high estimates. She said this concerned her social conscience as people were struggling financially and she did not like the idea that estimates were putting them under financial pressure. She strongly indicated that this was a motive for her behaviour.

[39] Ms Clune said in relation to the 22 November reading, she contacted someone at ADR, it was teeming with rain, and she asked whether it was okay to read a Post-it. She said she could have put in a “no read” but she was worried about estimates because she had been approached by angry customers on this point in the past.

[40] This behaviour shows a degree of deliberateness on behalf of Ms Clune not to carry out a reasonable and lawful instruction, but also not to carry out the very task she had been employed to do, namely read the meter.

[41] It could be said that the final warning Ms Clune received was less than perfect. Certainly on the face of it the warning left much to be desired. However, I note first Ms Clune did not challenge the warning and secondly, when she was cross-examined about what it meant she was quite clear, namely if she could not read a meter she was to put in “no read”. Specifically, she was not to rely on a Post-it note provided by occupants and finally, she believed that if she repeated the behaviour, she could face dismissal. So accordingly, although there are concerns about the warning and whether or not an employer acting reasonably could rely on it, Ms Clune’s own evidence on the point was emphatic.

[42] There is no doubt that when Ms Clune was called to the disciplinary meeting, on her own evidence, she had a full chance to put forward her position and explanations. She accepted the process by which her employer would make a decision, namely because of the time of year, it would convey that decision to her by email on 8 January 2024. Although Ms Clune was hopeful it would not come to that, her evidence was that she was told the decision could be to terminate her employment.

[43] I find that Ms Clune deliberately disobeyed the instruction her employer had given her regarding meter reading. First, the policy was clear, if the meter could not be accessed a “no read” was to be entered. Secondly, there was no question that this had

been reinforced to Ms Clune when she received the written warning. Thirdly, Ms Clune on more than one occasion when giving evidence, reiterated she always thought of the customer and wanted to avoid high estimate reads which would be the consequence of putting in a “no read”. She had an ulterior motive which was not in keeping with the interests of her employer, and as indicated above, Ms Clune had accepted that the warning she received was for not reading the meter, but relying on a Post-it note and entering into the system that the meter had been read when it had not been.

[44] When she attended the 22 December meeting, Ms Clune knew there had been an allegation of serious misconduct and knew what she was being accused of. She said she was given the option to have input prior to any finding being made and evidence was that she availed herself of this opportunity. She also confirmed that she agreed to the process by which the final decision would be conveyed by email.

[45] Whilst dismissal under these circumstances may seem harsh, Ms Clune was employed as a meter reader and in essence, her sole responsibility was to read meters. The process she was required to follow was not difficult. If she could not access a meter then she was to enter a “no read”. On the prior occasion when she had not followed this process it had been brought to her attention and she was left in no doubt that ADR was not prepared to condone this process or let it continue.

[46] Ms Clune complained that because she had apologised and felt she had not been believed, there were more circumstances and other factors ADR needed to be taken into account. However, ADR was entitled to conclude it could no longer have trust and confidence in Ms Clune to carry out her basic work function. Finally, there were no witnesses who corroborated Ms Clune’s statements that others were guilty of the same behaviour but not punished, or that she had been given approval to rely on a Post-it note. Overall, the process followed was fair to Ms Clune. She has not established that Arthur D. Riley and Company Ltd failed to act as a fair and reasonable employer could have done in making a decision to dismiss her. Ms Clune’s personal grievance application is declined.

Costs

[47] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves.

[48] If the parties are unable to resolve costs, and an Authority determination on costs is needed, Arthur D. Riley and Company Ltd may lodge, and then should serve, a memorandum on costs within 28 days of the date of this determination. From the date of service of that memorandum Ms Clune will then have 14 days to lodge any reply memorandum. On request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted.

[49] The parties can anticipate the Authority will determine costs, if asked to do so, on its usual “daily tariff” basis unless circumstances or factors, require an adjustment upwards or downwards.²

Geoff O’Sullivan
Member of the Employment Relations Authority

² For further information about the factors considered in assessing costs see:
www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1