

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKAURAU ROHE**

[2026] NZERA 179  
3365623

BETWEEN	ARNOLD PUTT Applicant
AND	GEORGE WESTON FOODS (NZ) LIMITED Respondent

Member of Authority:	Nicola Craig
Representatives:	Allan Halse, advocate for the applicant Charlotte Parkhill and Luke Ji, counsel for the respondent
Investigation Meeting:	9 to 11 December 2025 in Hamilton
Submissions (and further information) received:	18 and 24 December 2025 from the applicant 18 and 23 December 2025 from the respondent
Determination:	25 March 2026

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] Arnold Putt is a Packaging Operator based at the Hamilton site of Mauri, a division of George Weston Foods (NZ) Ltd (GWF or the company).

[2] GWF is a New Zealand food manufacturing company and is part of a global group of companies, specialising in milling and baking.

[3] Mr Putt brings grievances to the Authority that he was unjustifiably disadvantaged and dismissed by GWF related to events in the workplace on 8 November 2024 and afterwards, although the parties accept that he returned to or remained at work at the Mauri site in Hamilton and continues to do so. GWF says it acted fairly and reasonably.

### **Authority's investigation**

[4] An investigation meeting was held in Hamilton to hear evidence over three days, 9 to 11 December 2025. Evidence was heard under oath or affirmation from Mr Putt, Michael Heyes (Production Manager), Nishi Jain (People and Performance Business Partner), Kenneth Douglas (Site Leader), Lloyd Ratnaraja (Head of People and Continuous Improvement), along with a GWF maintenance engineer, lead operator and system co-ordinator. A health improvement practitioner/registered nurse Tanya Saunders supported Mr Putt during his evidence and provided a summary of her earlier intervention and support for him.

[5] This determination has not recorded all material received from the parties but has stated findings, expressed conclusions and specified orders made as a result, as permitted by s 174E of the Employment Relations Act 2000 (the Act).

### **Non-publication question**

[6] In his email lodging closing submissions Mr Putt's representative asked the Authority to consider *YFR v Reserve Bank of New Zealand* where a non-publication order was granted of the applicant's name and identifying particulars.<sup>1</sup> This was on the basis of YFR's own evidence and a letter from a clinical psychologist advising on the likely adverse effects of publication.

[7] Ms Saunders' letter, referred to in more detail below, describes engagement with Mr Putt since around November 2024. It does not comment on likely adverse impact of publication. It does indicate that he is suffering on-going work-related stressors.

[8] The starting principle must be open justice. In the absence of evidence of likely adverse effects from publication the basis for a non-publication order has not been made out.<sup>2</sup>

### **Issues**

[9] The issues for investigation are:

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<sup>1</sup> *YFR v Reserve Bank of New Zealand* [2025] NZEmpC 275.

<sup>2</sup> *Erceg v Erceg* [2016] NZSC 135 and *MW v Spiga Limited* [2024] NZEmpC 147.

- (a) Did GWF act unjustifiably to Mr Putt's disadvantage regarding:
- Failure to pay him properly while he was off work (in the event that he was not dismissed or had been reinstated by GWF)
  - Failure to properly investigate bullying against him
  - The issuing of a final written warning to him
  - On his return to work, failure to offer him overtime and treating him differently to other staff, in retaliation or disparity of treatment
  - Breach of good faith?
- (b) Was Mr Putt dismissed and if so, was that unjustifiable?
- (c) If a grievance is established, what remedies, if any, should Mr Putt receive, including:
- Reimbursement of sick leave and annual leave used during his absence from the workplace, which he says GWF should have paid as special or discretionary leave; and
  - Compensation for humiliation, loss of dignity and injury to feelings?
- (d) Should either party have to contribute to the costs of the other?

[10] It is fair to say that some additional aspects of unjustified action and disadvantage were emphasised during the investigation meeting on Mr Putt's behalf. GWF co-operated by expanding its evidence and providing additional documents as they became relevant.

### **Summary of submissions**

[11] Submissions for Mr Putt argue that there was sustained mistreatment of a long serving and vulnerable employee with serious psychological harm resulting. Reference is made to "bullying and mobbing behaviours, an aggressive confrontation initiated on a false premise and a process that isolated his reaction while excusing managerial provocation".

[12] Further, four interrelated propositions are advanced:

- Words of dismissal were communicated to Mr Putt or conduct which would have led a reasonable employee to believe they were dismissed
- The employer's subsequent denial of dismissal is not determinative
- The investigative and disciplinary processes were procedurally and substantively flawed

- The employer's actions caused Mr Putt real psychological harm.

[13] GWF's submissions include:

- Mr Putt's employment was not terminated on 8 November 2024
- He had an on-going employment relationship with the company and has returned to work
- If Mr Putt is found to have been entitled to believe his employment was terminated (which it denies) he was reinstated to his position shortly thereafter and did not suffer any disadvantage
- GWF engaged with Mr Putt and his representative about his complaint
- Undertook a fair and reasonable investigation into Mr Putt's conduct
- Was justified in its decision to issue him a final written warning.

### **The parties**

[14] Mr Putt is a very experienced packing operator having been in that GWF role since 2014, with a long background prior in machine operation.

[15] GWF describes Mr Putt as a long term and valued employee. His work life has not always been plain sailing however. There was evidence from co-workers and managers of times of angry behaviour from Mr Putt, particularly when there were changes in procedure or his usual routine. There were no current warnings in place as at November 2024.

[16] Mr Putt reported to Mr Heyes as production manager. Generally Mr Putt saw his relationship with Mr Heyes as good. Mr Heyes saw them as having a working relationship without being friends outside work.

[17] Mr Putt had also been offered and participated in New Zealand wide education what I describe as foundational life skills programmes which GWF had arranged for staff.

[18] His representative questions if his pay rate, for someone whose "work ethic was never challenged", demonstrates that Mr Putt was valued. Not however a focus for this investigation.

[19] The Mauri Hamilton site includes large scale commercial bakery ingredients manufacture with continuously running machinery. The two main products to be packaged are compressed yeast (referred to as CY) and crumble (crumbled yeast), both of which are packed in the CY Room.

[20] Broadly speaking, packaging operators are responsible for making sure GWF's products are properly and efficiently packed, ready for distribution. The job includes operating packaging machinery. Mr Putt had extensive experience in operating machinery. GWF describes all operational staff have a KPI to attend to and complete orders on time.

[21] In order to keep up with orders, packaging operators are on occasions offered voluntary overtime.

[22] The daily routine usually involves staff being informed by production managers of which tasks must be undertaken and which are high in priority. GWF expects work to be prioritised based on the relevant deadlines, to ensure orders are met on time.

### **Friday 8 November 2024**

[23] Mr Putt was asked and agreed to undertake overtime on what would otherwise have been his rostered day off.

[24] Mr Heyes, as Mr Putt's immediate manager, around 6am on the morning of the 8<sup>th</sup> sent him this message:

Packing Friday CT-4-1101 salt 30500

2 x crumble into unicon with labels

X... and Y... to help from 7.30 let's smash this out then get onto cartons wana try this tank packed out.<sup>3</sup>

[25] Although reading was not Mr Putt's strong suit, communications by text like this were an agreed means of communication to him about daily events, whilst some others preferred emails of the production schedule. Warehouse staff were starting at 6 or 7am and Mr Heyes usually started a short time after that.

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<sup>3</sup> Names anonymised.

[26] There was some suggestion at the Authority's meeting that Mr Putt had not seen the text message before or at the start of his 7am shift although he had difficulty pinning down when he had first seen it. In his interview with Ms Jain for an internal investigation, closer to the time of the events than the Authority's meeting, Mr Putt accepted he had come in to pack crumble.

[27] Mr Putt goes into the site warehouse at around 7am, where the compressed and crumble yeast are manufactured and packaged. According to the system co-ordinator, Mr Putt asks him why the crumble was being packed that day. The co-ordinator replies that there had been yeast shortages during the week, resulting in a delay in crumble production. He indicates the crumble needs to be completed that day so it can be sent on Monday.

[28] Crumble is packed in the CY room. Mr Putt is in the adjacent cream tank room refilling the canola oil with the maintenance engineer. The canola oil is not required for the production or packing of crumble but Mr Putt sees it as a job which needs to be done for other work to proceed. He and the engineer start the oil job.

[29] There is some dispute about the time Mr Heyes arrives. He recalls coming in between about 7.20 and 7.30 am, being his usual time, whereas a snipped CCTV image shows Mr Putt heading for his final brief comment to Mr Heyes at 7.31pm, suggesting Mr Heyes may have been earlier, given events described below. Ultimately I did not find the timing of much significance.

[30] Mr Heyes expects to see Mr Putt in the CY room working on the crumble but actually finds him working on the canola oil in the cream room. There is an interaction about why Mr Putt was undertaking the oil task in that room when the crumble operation was not going on as ordered by Mr Heyes. Mr Putt wants to keep going with the oil task now that is started. The situation escalates to verbal confrontation between the two men. Mr Heyes continues to ask for the crumble work to be started.

[31] Mr Putt moves to another room and then into the transition area, which is the exit to get out of the warehouse and into the locker area and bathroom. This was now described by his representative as an attempt to de-escalate the situation with Mr Heyes criticised for escalating the situation by following Mr Putt. On the other hand, Mr Heyes explains he was reluctant to leave Mr Putt in an agitated state in a safety sensitive area

with machinery, including due to historic events involving Mr Putt kicking or throwing things in the workspace out of frustration. This put Mr Heyes in a difficult position.

[32] Mr Putt accepts that he was getting fired up during this interaction but says that Mr Heyes was as well. Mr Putt does accept he swore at Mr Heyes. The words which Mr Putt focuses on to establish dismissal are discussed below.

[33] Other workers in the warehouse cannot hear the entire conversation between the two but report hearing:

- Worker 1 - Mr Putt saying “fucking sick of this shit” and yelling at Mr Heyes that he could run the crumble machine himself. Mr Heyes, responding he did not like Mr Putt’s attitude and Mr Putt could go home. Mr Putt getting in Mr Heyes’ face, yelling and swearing. Later describing Mr Putt as “going off his tree”.
- Worker 2 - Mr Heyes asking “what’s with the attitude” and Mr Putt saying “well you fuck me off”.
- Worker 3 – Mr Putt shouting but not Mr Heyes.
- Worker 4 - (did not provide evidence to the Authority but interviewed in internal investigation) Mr Putt saying “fuck you” and “fuck off” to Mr Heyes. Did not hear Mr Heyes raise his voice or yell.

[34] None of those workers report Mr Heyes swearing at Mr Putt.

[35] At the Authority’s meeting Mr Putt accepted he should have followed Mr Heyes’ reasonable instructions and it was acceptable for a manager to ask why his instructions were not being followed. He also accepted Mr Heyes’ instruction to pack to pack crumble was reasonable.

[36] Submissions suggest that Mr Heyes provoked Mr Putt. I accept Mr Heyes questioning what Mr Putt was doing had an impact on Mr Putt but not that these were inappropriate questions or were asked in provocative manner. As the production manager Mr Heyes was entitled to question, in a reasonable manner, why the job he expected to be started on was not happening.

[37] Mr Putt goes to take off his safety gear in the locker room. He then goes to see the engineer and asks him if he had a box to pack Mr Putt's belongings, saying that Mr Heyes had fired him. He packs his locker contents into the box.

[38] Then Mr Putt goes around to the back door of the warehouse, approaching from a driveway, calling to Mr Heyes that he would be hearing from Mr Putt's lawyer. Mr Putt is not wearing his hi vis top or his safety boots. He departs GWF's premises.

### **Was there a dismissal?**

[39] In order for there to be an unjustified dismissal grievance there must be a dismissal, either actual or constructive. This was argued on Mr Putt's behalf to be an actual dismissal.

[40] The test is objective – whether it was reasonable for someone in Mr Putt's position to have considered his employment was terminated.<sup>4</sup>

#### *Mr Putt's evidence*

[41] Mr Putt's evidence both in the internal investigation and to the Authority was that Mr Heyes said during the 8 November interaction that he was "fired".

[42] Mr Putt accepted under questioning that even if Mr Heyes had only told him to go home, he still would have thought he was fired. Under other circumstances that may have been more understandable but at this site at least, there was a practice of offering agitated or upset employees time away from the immediate workplace in order to cool situations down. That approach had been taken with Mr Putt previously. Although it was accepted that Mr Putt had never taken up the possibility of going home, he had on earlier occasions accepted the suggestion of withdrawing himself from the workplace when he was irate.

[43] Mr Putt made a comment to Mr Heyes about selling his house and shortly after conveyed Mr Heyes would be hearing from his lawyer.

#### *Mr Heyes' evidence*

[44] Mr Heyes says when he instructed Mr Putt to stop working on the canola oil and start packing the crumble, Mr Putt began yelling and swearing at him. After some further interaction, Mr Heyes replies that Mr Putt could go home and the rest of the team would

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<sup>4</sup> For example, *Cornish Truck & Van Ltd v Gildenhuis* [2019] NZEmpC 6 at [45].

pack the crumble, attempting to de-escalate the interaction with Mr Putt, as he had many times before. His impression was this made Mr Putt angrier, with Mr Putt swearing – “fuck this company” and “get off my fucking back”.

[45] Mr Heyes denies saying “you’re fired” or anything similar.

#### *Evidence of other staff*

[46] Not all the conversation was likely within the hearing of other workers.

[47] One of the workers reports hearing Mr Heyes say that he did not like Mr Putt’s attitude and he could go home, with no mention of being fired.

[48] The engineer was asked for a box which Mr Putt said he needed because he had been fired.

#### *Conclusion*

[49] This was not the first occasion when Mr Heyes had a challenging interaction with Mr Putt. He described having to prepare for certain discussions with Mr Putt which were anticipated to be difficult for Mr Putt.

[50] Standing back and considering all the evidence:

- Mr Heyes’ evidence was compelling - he did not tell Mr Putt he was fired or similar.
- Evidence of all the other workers fitted with him being calm in this interaction with Mr Putt. I accept GWF’s submission that his evidence before the Authority, including under cross examination, was given in a calm and collected manner.
- There is evidence of others that Mr Heyes becomes quieter and retreats into himself when involved in conflict situations, rather than blowing up.
- Mr Heyes was an experienced manager. He was aware of the levels of authority on the Mauri site with him not having authority to dismiss employees. He knows that it is unlawful to fire an employee on the spot.

- Mr Heyes had extensive experience of dealing with Mr Putt and although he did not always find it easy, he planned ahead to try to manage situations as best he could, carefully and calmly.
- Mr Putt was extremely irate, “going off his tree” and not in a good position to calmly understand what was said to him. Based on Mr Putt’s actions, the indications are he genuinely considered in the moment that he had been fired, although he accepts he would have seen a reference to “go home” as being fired too.

[51] I conclude Mr Heyes did not tell Mr Putt that he was “fired” or similar although that was the intent Mr Putt took from the interaction.

[52] A reference to ‘go home’ or the like can be seen as a reference to dismissal but was there an unequivocal statement which in these circumstances a reasonable observer would have considered to amount to dismissal?

[53] Mr Putt had been through GWF disciplinary processes before and they did not involve a sudden decision on the spur of the moment. He knew Mr Heyes did not have authority to dismiss him. He was aware of being offered time out on other occasions as a way of cooling off or de-escalating a tense situation.

[54] In conclusion a reasonable observer in Mr Putt’s place would not have considered the reference by Mr Heyes to Mr Putt going home to be a dismissal. Mr Putt was not dismissed on 8 November 2024.

### **Events following Mr Putt’s departure**

[55] Even if that conclusion that there was no dismissal is wrong, as set out below, the employment relationship was re-established relatively promptly.

[56] Mr Heyes reports his perspective on what had happened to Mr Douglas. They agree that it was best to leave Mr Putt to calm down and talk to him on Monday.

[57] That Friday the 8<sup>th</sup> of November, at 9.48 am Allan Halse emails GWF referring to having received a call from Mr Putt, saying that he had been dismissed without notice by Mr Heyes at approximately 7.30am. Mr Halse is keen to discuss how this matter can be resolved without litigation.

[58] On Monday 11 November 2024, it becomes apparent Mr Putt is not arriving at work. Ms Jain phones him. Mr Putt says he thinks Mr Heyes fired him. Ms Jain indicates the company's position that his employment is still in place and there would be an investigation.

[59] During the Authority's meeting Mr Putt confirmed he did not mind her making contact with him. Mr Halse's 8 November communication, written at short notice, did not explicitly specify that Mr Putt was represented by Mr Halse, although that could potentially have been implied from the message. The preferable approach would have been to check with Mr Halse whether he was representing before approaching Mr Putt directly.

[60] The following day Mr Ratnaraja informs Mr Halse that GWF is investigating and they will be in touch about meeting with Mr Putt as part of that. Mr Halse subsequently advises that communication should come through him as Mr Putt's representative. Another email that morning from Mr Ratnaraja refers to Mr Putt's allegation that his employment was terminated but notes that is not Mr Heyes' recollection. Mr Ratnaraja states his understanding that Mr Putt's employment is ongoing.

### **Investigation process commences**

[61] The Site Manager Mr Douglas invites Mr Putt to attend an investigation meeting into concerns that he has allegedly:

- engaged in inappropriate behaviour by yelling, shouting and arguing with Mr Heyes
- left the workplace claiming Mr Heyes had terminated his employment when there were no grounds to suggest Mr Heyes had done that
- after the above incident, entered the warehouse area without hi vis (high visibility gear) and safety boots.

[62] Reference is also made to those matters being in breach of the GWF Employee Handbook, Health and Safety Policy and his employment agreement. This stage is identified as an investigative process by Ms Jain, with the possibility of a disciplinary process to follow.

[63] On 15 November 2024 Mr Putt advises GWF he was on sick leave from that day. The next day Mr Putt's representative raises in writing personal grievances for unjustified dismissal and unjustifiable disadvantage noting:

- Mr Putt has a learning disability and becomes defensive when challenged
- is taking sick leave from 15 to 29 November due to his distress
- GWF has breached section 4 of the Act by Ms Jain contacting Mr Putt on 11 November instead of going through his representative
- Mr Putt had a reasonable reason for filling the canola oil on 8 November
- Mr Heyes fired Mr Putt on 8 November
- Mr Putt acknowledges responding in kind to Mr Heyes' yelling, shouting and arguing but at least tried to remove himself from the situation
- There was no failure to return to work from 11 November as Mr Putt has been dismissed.

[64] On 18 November GWF receives a medical certificate indicating Mr Putt is unfit to work until 29 November 2024. It communicates that it will postpone the investigation meeting until he is fit to return to work, with no concerns raised by or on behalf of Mr Putt regarding that decision.

[65] This was a confusing situation for Mr Putt. When questioned at the Authority investigation meeting he was not able to explain clearly why he sought a medical certificate declaring him unfit for work and gave this to GWF, despite claiming he believed he had been fired.

[66] Mr Halse requests on 20 November that Mr Putt be paid for the missing week of work, along with raising another personal grievance in that regard. Discretionary leave is sought. Mr Douglas replies that Mr Putt had not worked any hours the previous week, as well as noting his medical certificate only ran from 15 November.

[67] When GWF later receives a medical certificate from 8 November, it pays Mr Putt for that period.

[68] Mr Douglas communicates on 25 November, responding to the grievance and confirming there is an ongoing investigation. GWF does not consider Mr Putt's employment was terminated and him being entitled to use sick leave or potentially another paid leave arrangement, if he ran out of sick leave. Suggestions regarding Mr Putt's learning disability were welcomed.

[69] A return to work plan for Mr Putt is discussed by email about during December.

### **The New Year**

[70] 5 January 2025 sees Mr Putt raise additional personal grievances for unjustified disadvantage and unjustified dismissal, focusing on discretionary leave.

[71] On 6 January he returns to work, with a new reporting manager in the interim and instructions he and Mr Heyes not discuss matters being investigated.

[72] On 24 January after meeting with witnesses and Mr Putt, Ms Jain releases a draft report and invites Mr Putt's comments.

[73] Mr Halse communicates on 3 February Mr Putt's view that the outcome was predetermined and therefore not worth "scrutinising". Reference to two additional grievances is made – "alleged refusal to bring the personal grievance" and appointing Ms Jain, who had contacted Mr Putt directly and predetermined the outcome by saying that Mr Putt had not been fired.

[74] The final report is provided on 10 February and finds that:

- Mr Putt had engaged in inappropriate behaviour by yelling, shouting and arguing with Mr Heyes
- there was not factual evidence to establish that Mr Heyes had fired Mr Putt
- Mr Putt entered the warehouse area without hi vis and safety boots.

[75] The same day GWF invites Mr Putt by letter to a disciplinary meeting on 18 February regarding the issues set out in the previous paragraph – offensive language (use of the "f" word multiple times and directed to Mr Heyes) and failure to wear a hi vis vest and safety boots in the warehouse area. The handbook and health and safety policy are referred to.

[76] Mr Putt's representative raises a further personal grievance to Mr Douglas' manager on 12 February arguing that the investigation is a sham and fundamentally flawed with breaches of the Act, natural justice and good faith obligations. A number of factors are pointed to including failure to provide CCTV footage, the investigator being conflicted, predetermination, failure to consider Mr Putt's learning disability and penalisation of Mr Putt by not offering him overtime since he raised a personal grievance. Mr Douglas' manager responds on 18 February.

### **GWF's decision**

[77] After a 21 February 2025 meeting, Mr Douglas advises on 24 February of his preliminary decision - Mr Putt's conduct to amount to serious misconduct and proposes a final written warning. The finding relies on Mr Putt's use of offensive language breaching the Employee Handbook and his failure to wear a hi vis vest and safety boots in the warehouse in breach of the health and safety policy.

[78] Mr Putt's representative responds on 26 February, with a summary of concerns. Mr Douglas provides a 28 February response.

[79] Then on 5 March 2025 Mr Douglas confirms in writing that Mr Putt will receive a final written warning and would return to his original reporting line under Mr Heyes.

[80] Mr Putt remains working at GWF as at the time of the Authority's investigation meeting and subsequent submissions.

### **Analysis**

[81] Moving on now to consider aspects of GWF's actions which are identified as problematic on Mr Putt's behalf.

### **Deciding there was no dismissal and discrediting?**

[82] Submissions for Mr Putt conclude that GWF personnel decided that Mr Putt had not been dismissed and determined to discredit him.

[83] GWF had to make an initial call with some urgency – they had an employee who was saying he was dismissed and a manager who was saying he had not told the employee he was dismissed. Mr Heyes was not authorised to dismiss and Mr Putt knew that. GWF chose to proceed (possibly at least in the interim) on the basis of accepting the manager's

position and trying to inform the employee that it regarded him as still employed and able to come back to work.

[84] That was within the range of reasonable actions an employer could take in those circumstances. If it had gone along with Mr Putt's understanding that he was dismissed, the employment relationship would have been at an end and GWF would not have had an obligation to offer him further work.

[85] At some point actions of requesting for pay, sick leave and returning to work in the same role, support Mr Putt affirming that the employment relationship was in place.

[86] I understand the evidence at the Authority's meeting about Mr Putt's work history and descriptions of him as a fairly "angry" person could be seen as an attempt to discredit him. However, previous incidents, including those resulting in disciplinary action, were relevant to Mr Heyes' evidence about his planning for discussions with Mr Putt and why he followed him around the warehouse on 8 November, rather than leaving him alone.

#### **Unwillingness to de-escalate or informally resolve?**

[87] Submissions on Mr Putt's behalf argue that GWF was unwilling to de-escalate the situation or address it informally leaving him in a state of uncertainty.

[88] Mr Douglas' evidence was that he was intending to resolve the matter through discussion about Mr Putt's return on Monday (11 November). From GWF's point of view the 8 November email referring to "litigation" did not set a de-escalation tone.

[89] In any event GWF did indicate verbally on Monday 11 November and in writing the following day that it regarded Mr Putt's employment as on-going.

[90] The suggestion in Mr Putt's submissions that the investigation was protracted, ignores the fact that Mr Putt was on leave, GWF did not consider it should continue in those circumstances and there was no suggestion to the contrary on Mr Putt's behalf.

#### **Delay in sick leave payment?**

[91] Mr Putt was concerned about GWF's failure to pay him sick leave from 8 November to 15 November 2024. Mr Putt initially did not seek leave or notify GWF of the reason for his absence. Mr Halse had informed GWF that Mr Putt understood he had been dismissed. Then on 13 November 2024 GWF invited Mr Putt to an investigation

meeting. On 15 November a medical certificate covering 15 to 29 November was received and sick pay commenced from 15 November.

[92] When a request is made later regarding payment for the missing week, Mr Douglas replies that the medical certificate did not cover that period. Once an updated medical certificate from 8 November 2024 onwards was received Mr Putt was paid for that earlier period.

[93] In circumstances where the company was indicating it saw Mr Putt as still employed but Mr Putt did not either return to work or seek any leave (prior to 15 November), GWF did not see itself as properly automatically electing to pay sick or annual leave without the employee's request or agreement.

[94] GWF's approach was understandable and it acted promptly to pay once the initial, then the revised, medical certificate was provided.

#### **Non-payment of discretionary leave?**

[95] Submissions for Mr Putt argue that he should have been put on discretionary leave in the period he was off work. GWF does not provide discretionary leave although it did tell Mr Putt that it was open to discussing advances of sick leave if he needed this.

[96] Whilst discretionary or special leave are used quite widely in other organisations to cover situations not well covered by standard leave entitlements or where it is not seen that the employee should have to use their own entitlements, it is not established that it was unfair for GWF not to offer it here.

#### **Discriminatory treatment?**

[97] It was argued strongly for Mr Putt that he was treated differently and worse because of learning disabilities.

[98] GWF recognised that Mr Putt had some difficulty, if not exactly described as a learning disability.

[99] I was unable to identify any negative consequences caused by the company in this regard. The company had offered staff, including Mr Putt, extensive educational opportunities. Mr Putt had picked those up but prior to the November 2024 seemed less willing to take up other assistance through EAP.

[100] When this matter was raised on Mr Putt's behalf in November 2024, GWF indicated it was prepared to undertake the investigation process in a manner which ensured Mr Putt was fully able to participate, recognising his learning disability. Suggestions were welcomed, with an offer, for example, to put questions in writing.

#### **Direct contact with Mr Putt?**

[101] Ms Jain contacted Mr Putt directly on 11 November 2024 despite Mr Halse having written regarding Mr Putt. It was unfortunate that no effort was made to clarify with Mr Halse his status, particularly as there was some wider awareness of Mr Halse's role as a representative.

[102] However, in the absence of anything untoward occurring during the discussion between Ms Jain and Mr Putt and with him saying he did not mind her calling, there was no disadvantage.

#### **Inappropriate investigator role?**

[103] Submissions for Mr Putt are critical of Ms Jain being given the investigator role when she had effectively told Mr Putt that he had not been fired. To be precise, it seems more likely she told him the company still regarded his employment as in place.

[104] As discussed above GWF had to make a prompt call whether it would regard Mr Putt as dismissed despite the production manager saying he had not done so in circumstances where there had been none of the usual GWF process and that manager had no authority to dismiss. Although she may have been involved in discussions, that was not Ms Jain's call to make. She was however the person who had to first communicate that to Mr Putt.

[105] Appointing her was not unfair or unreasonable in these circumstances. From the 20 page single spaced transcript of her meeting with Mr Putt she certainly spent time exploring the issues with Mr Putt and his representative, during her investigation.

#### **Failure to obtain camera footage?**

[106] At and before the Authority's meeting Mr Putt's representative criticised GWF for failing to secure CCTV footage of the events.

[107] Ms Jain's investigation report notes that CCTV footage from 8 November 2024 could not be retrieved as the recordings only go back a certain time. Mr Douglas confirmed to the Authority that, having earlier taken a snip relating to health and safety gear, when he later looked for footage, all had been wiped.

[108] In addition, there was consistent evidence from several witnesses that GWF had a persistent technological problem with a small number of cameras, with significant external assistance brought in, in an attempt to fix the problem.

[109] Would obtaining the CCTV footage have made a difference to the outcome? What was really in question here were the words used by both men. The CCTV footage did not have audio-recording. There was some dispute about the exact course of their movements but that did not answer the question of what was said. It is difficult to see that Mr Putt was disadvantaged by the failure to provide CCTV footage.

[110] It is not evident that GWF breached good faith obligations, for example, by not providing footage that was available when requested by the employee's representative.

**Did the investigation have too limited a focus?**

[111] The investigation was not originally set up to examine whether or not Mr Heyes had dismissed Mr Putt with the 13 November 2024 letter to Mr Putt stating:

The purpose of this meeting is to investigate concerns we have regarding alleged conduct by you that you may not have met the required standards of your employment. (*emphasis added*)

[112] That is followed by three allegations about his alleged inappropriate behaviour with Mr Heyes, leaving the workplace and not wearing safety gear.

[113] By 18 November 2024 Mr Halse was arguing that the outcome was predetermined and raising grievances. Earlier that day GWF, via Mr Douglas, stated the grievance would be responded to in advance of the investigation meeting.

[114] However, a 25 November letter which provides the grievance response includes that Mr Heyes denies having told Mr Putt he was fired but accepts he was sent home, there being other evidence of a verbal confrontation with no findings having been made as the investigator had not yet had the benefit of speaking to Mr Putt. There is a further reference to a possible investigation conclusion that Mr Putt was sent home for health and safety reasons, to de-escalate a threat (from him). Further, Mauri:

... does not consider Mr Putt's employment was terminated and it remains committed to understanding what did occur, through [a GWF] investigation meeting ...

[115] At that point, Mr Putt was led to believe the investigation by Ms Jain would include consideration of Mr Heyes' conduct. However, that was not the original focus of the investigation. In a situation where Mr Putt thought he had been dismissed, this undermined Mr Putt's confidence in the investigation process.

[116] As it turns out Mr Heyes' conduct was examined to some extent as part of the internal investigation process. The sequence of events was examined in quite some detail during the investigator's interviews with Mr Putt, Mr Heyes and four workers who were present in the wider warehouse area during the interaction. In a very limited manner the investigator concludes that "it cannot be established whether Mr Heyes "fired" Mr Putt", in the absence of accessibility to CCTV footage and the CCTV set up not capturing audio. There is no wider finding about whether there was other evidence which supported the allegation that Mr Heyes had fired Mr Putt.

[117] In conclusion GWF acted inconsistently in its identification of whether it was investigating Mr Heyes' conduct, leaving a lack of clarity about whether an investigation in that regard was undertaken. This was an unjustified action which was to Mr Putt's disadvantage, generating uncertainty about whether only his actions were investigated despite his grievances effectively complaining about Mr Heyes' actions.

[118] Evidence at the investigation meeting from Mr Ratnaraja and Mr Douglas was that if there had been evidence that Mr Heyes acted inappropriately, the necessary investigatory and disciplinary action would have been taken against him too.

### **Were other workers not free to give frank information?**

[119] A theory explored on behalf of Mr Putt was that other blue-collar workers would feel compelled or encouraged during the internal investigation to support the manager's evidence rather than that of Mr Putt. While that is not an unknown phenomenon in situations of power imbalance, there was little to support it occurring here. Mr Putt's representative sought that those workers gave evidence to the Authority and three did so.

[120] Importantly, the reporting lines are not all directly through the production manager. Only one of the three workers reports to Mr Heyes. There was no evidence of

any of them being provided with Mr Heyes' account of events by the time they made their initial statements.

[121] Although some were more expansive than others in their evidence, all three confirmed to the Authority that they did not feel inhibited in the provision of their memories of 8 November or felt influenced to change their accounts in favour of either Mr Heyes or Mr Putt.

[122] It was not ideal that on 11 November 2024 at 10.31am Mr Heyes sent brief emails to the engineer, lead operator and system co-ordinator, asking them to state their accounts "from what happened in your eyes on Friday with the altercation between myself and Arnold Friday 8<sup>th</sup> November 7.30-8.00". He followed up on these statements on Mr Douglas' instructions. As a result the two statements returned directly had Mr Heyes' subject line on their email. This opens up a degree of suspicion.

[123] However, Ms Jain interviewed each of the three separately, the Authority also heard their evidence and there was an opportunity for cross examination.

[124] Presumably an alternative argument for Mr Putt, was that there was a "workplace mobbing", which had positioned Mr Putt as a scapegoat with a "co-ordinated response" against him. This appears to largely relate to the events after his return to work, covered below.

[125] To the extent that the submission suggests there was a scapegoating of Mr Putt for "broader organisational tension and conflict" unrelated to the 8 November incident, the nature of such tension or conflict is not evident.

### **Was there a failure to protect Mr Putt's mental health?**

[126] Submissions for Mr Putt emphasise that GWF never provided a health and safety policy that dealt with managing mental health issues. Further, Mr Putt was not provided with any support in dealing with his mental health issues.

[127] GWF has a 2024 Health, Safety and Wellbeing Policy which does make mention of staff reporting safety concerns both physical and psychosocial. There is no discussion in the policy of how the organisation will deal with staff with mental health issues. Mr Ratnaraja spoke of the company's wider actions, surveying staff on psychological harm,

putting out posters and other visuals. He sees the company's employee assistance programme (EAP) as bringing in the trained professionals as regards mental health.

[128] There was some evidence of Mr Putt not taking up before November 2024 mentions of the available employee assistance programme. He has sought assistance from Ms Saunders since then.

[129] Ms Saunders' letter of 23 June 2025, referred to in more detail below in the Remedies section, was unchallenged but was also not known about by GWF in the period from 8 November 2024 until the warning was issued. The medical certificates provided to GWF refer simply to Mr Putt being "medically unfit".

[130] Mr Putt's representative alleges that GWF took no meaningful steps to assess psychosocial risk, provide support or pause its disciplinary approach. He identified in writing on 16 November that Mr Putt was extremely distressed as a result of his "dismissal" and was signed off by the doctor. Continuing stress was mentioned in December.

[131] After initially obtaining material from witnesses, GWF did pause its investigation process in order to wait for Mr Putt to be sufficiently well to attend a meeting. The company indicated it was adapt its process to ensure Mr Putt could fully participate. Suggestions were welcomed but no changes to the proposed process were indicated. There was thus little room for criticism that it had failed to adapt to Mr Putt's needs during that process prior to its completion.

[132] GWF would be well advised to consider Ms Saunders' letter as regards its future interactions with Mr Putt.

### **Good faith**

[133] There is nothing additional to add that has not already been covered above.

### **Was the issuing of a final warning unjustified?**

[134] GWF was entitled to rely on the GWF Employee Handbook, which identified "using abusive, threatening or offensive language" and failure to follow the company's health and safety policies as examples of serious misconduct.

[135] There was an argument that Mr Putt had limited ability to read the handbook, despite having signed it. However, Mr Douglas and Mr Putt had had previous discussions about language in the workplace and the importance of keeping things under control.

[136] The direction of the offensive language on 8 November 2024 at another person was understandably regarded as aggravating the seriousness of the conduct. Also, this was not a one-off use of swear words. Mr Putt swore at his manager Mr Heyes on several occasions during this extended interaction.

[137] A supervisor can require an employee to stop a task and start another, as a matter of work prioritisation is not inherently unreasonable. The evidence did not establish Mr Heyes acting in a way so as to provoke Mr Putt.

[138] Mr Putt was aware of the requirement to wear safety gear in the driveway area as part of GWF's safety requirements. As a manufacturing operation, GWF does take health and safety seriously and has safety sensitive areas to its operations. Suggestions on Mr Putt's behalf of disparity of treatment for others involved in safety breaches was not sufficient to establish disparity of treatment. Further, staff including Mr Putt were provided with safety training.

[139] Also to be considered is that having made a finding of serious misconduct, GWF could have dismissed Mr Putt but chose not to. The Employee Handbook identifies that instances of misconduct may result in the giving of a warning or a final warning whereas serious misconduct may result in a dismissal without notice. Although categorising the behaviours as within the Handbook's examples of serious misconduct, GWF adopted an outcome usually linked to misconduct.

[140] The giving of the warning was not an unjustifiable action.

### **Was there unjustified action during events after Mr Putt's return to work?**

[141] Mr Putt experienced some discomfort with his return to work after a considerable period of leave following the 8 November incident. There was little to support this being as a result of actions or inactions on behalf of GWF. Being involved in a not insubstantial investigation regarding a colleague and him being away from work for around two months, could well generate some moments of discomfort on his return. Mr Putt's evidence of co-worker's behaviour had some element of that. There was no evidence to support the prospect of mobbing, or collective and systematic bullying on his return.

[142] Mr Putt also felt that on his return he was getting less overtime than he had previously. Overtime is generally shared between relevant categories of co-workers and the amount will vary. There was evidence to explain a downturn in overtime in the relevant period of 2025. Mr Putt was getting some overtime but there was less to go around. From payroll records, he did 10 overtime shifts between March and August 2025. As with other workers, Mr Putt would sometimes reject offers of overtime as he had other activities to participate in.

[143] It has not been established that GWF offered Mr Putt less overtime than other workers in a similar situation.

### **Conclusion on grievances**

[144] Mr Putt has succeeded on one aspect of disadvantage due to unjustified action. Consideration has been given to whether any harm suffered was minor and did not result in Mr Putt being treated unfairly, but that was not the case here.<sup>5</sup>

### **Remedies**

[145] For his grievances Mr Putt seeks reimbursement, or perhaps recrediting, of leave and compensation under s 123(1)(c)(i) of the Act.

### **Lost leave or non-payment of special leave**

[146] Mr Putt's seeking of reimbursement for the sick and annual leave he took could potentially be seen as a loss of other money as a result of the grievance (s 123(1)(b) of the Act) or as a loss of a benefit of paid leave which he would otherwise have obtained but for the grievance (s 123(1)(c)(ii)).

[147] In any event, the necessary causal connection between the grievance that was actually found and Mr Putt's loss is not established. No order regarding wages or other money owing or leave is made.

### **Compensation**

[148] Mr Putt is entitled to compensation for the non-financial impacts of the grievance.

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<sup>5</sup> The Act, s 103A(5).

[149] Mr Putt gave limited evidence of the impact of events on him. However, I accept that he may well not have found it easy to describe, in the context of an investigation meeting, the emotional and mental impacts of these events on him.

[150] However, Ms Saunders' letter can be relied on. She records Mr Putt conveying that he had found it difficult and intolerable at times to continue working in a hostile environment whilst seeking a resolution. She details aspects of sleep disruption, anxiety, financial pressures and concerns, along with frequent heightened emotional reactivity. The difficulty is that these impacts are likely to relate to the various aspects of grievance, claimed by Mr Putt, but only established to a very limited extent as being unjustified actions of GWF.

[151] Although not an easy exercise, taking that into account along with considering awards in other cases of a similar nature, the compensation appropriate in these circumstances is \$8,000, subject to contribution consideration.

### **Contribution**

[152] Broadly GWF submits that Mr Putt's contribution to the situation is highly relevant and considers a reduction at the rate of 50% is justified.

[153] However, given the narrow basis on which the unjustified action has been established, I do not regard Mr Putt's conduct to have been blameworthy or to contributed to this particular aspect. GWF is a large business with resources to undertake proper processes. No deduction is warranted.

### **Orders**

[154] Within 28 days of the date of this determination GWF is ordered to pay Arnold Putt \$8,000.00 for compensation under s 123(1)(c)(i) of the Act.

### **Costs**

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

[156] If the parties are unable to resolve costs, and an Authority determination on costs is needed, Mr Putt 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 GWF

then has 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.

Nicola Craig

Member of the Employment Relations Authority