

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 236
3411884

BETWEEN EMILY GRINSTED
Applicant

AND BUNNINGS LIMITED
Respondent

Member of Authority: Matthew Piper

Representatives: Penny Swarbrick, counsel for the Applicant
Simon Laphorne and Iqra Khan, counsel for the
Respondent

Investigation Meeting: 17 February 2026 in Auckland

Submissions received: 27 March 2026 from the Applicant
27 March 2026 from the Respondent

Determination: 21 April 2026

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Bunnings Limited (Bunnings) is a large Australasian retailer of home improvement and outdoor living products. Emily Grinsted is Bunning's People and Culture Manager for the New Zealand, reporting to Bunnings' General Manager – People Operations, Rana Obeid, who is based in Melbourne.

[2] Ms Grinsted commenced employment with Bunnings on 3 March 2025, and remains employed by the company. Tensions emerged in her relationship with Ms Obeid regarding perceptions of Ms Grinstead's style and approach, which led to an exchange of correspondence between the parties' solicitors in August 2025.

[3] Ms Grinsted claimed that she was unjustifiably disadvantaged in her employment by the way Bunnings approached criticisms of her work, including by failing to provide her information about those criticisms. She further claimed that Bunnings had not allowed her to perform her duties, breached an obligation to give her a pay rise, failed to pay her a bonus and had not complied with its duty of good faith and the parties' employment agreement.

[4] Bunnings denied that Ms Grinsted was unjustifiably disadvantaged or that it breached any contractual obligation to her. It further said that it had at all times attempted to support her and treated her in good faith.

The Authority's investigation

[5] For the Authority's investigation written witness statements were lodged from Ms Grinsted and Ms Obeid. Each answered questions under oath or affirmation from me and the parties' representatives. The representatives also gave oral closing submissions.

[6] 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 of the matter and specified orders made. It has not recorded all evidence and submissions received.

The issues

[7] The issues requiring investigation and determination were:

- (a) Whether the applicant was unjustifiably disadvantaged in her employment by:
 - (i) the manner in which issues were raised with her by the respondent, including whether sufficient information was provided regarding apparent concerns;
 - (ii) being excluded from work within her field of responsibility;
 - (iii) not receiving a bonus payment;
 - (iv) not having her salary increased with effect from 1 September 2025; and
 - (v) a failure by the respondent to comply with its contractual and good faith obligations to the applicant.

- (b) If the respondent's actions were not justified, what remedies should be awarded?
- (c) If any remedies are awarded, should they be reduced (under s 124 of the Act) for blameworthy conduct by the applicant that contributed to the situation giving rise to her grievance?
- (d) Should either party contribute to the costs of representation of the other party, and should special damages be awarded to the applicant in respect of costs incurred?

Background

[8] Bunnings' headquarters are in Melbourne. It has a New Zealand based Company Manager and certain support functions, including human resources (HR), are provided from an Auckland office. However, the Melbourne office exercises ultimate control over the business's operations in both Australia and New Zealand.

[9] Ms Grinstead's role as a People and Culture Manager means that she leads other people and culture partners in New Zealand and facilitates a broad range of HR matters in New Zealand including employment relations and bargaining.

[10] Ms Grinstead's role was described as being highly autonomous in that she controlled her day-to-day work and managed her team. Her role was also described as senior within the Bunnings business and required her to build constructive relationships with a range of stakeholders both in Australia and New Zealand in order to encourage alignment between business and HR objectives.

[11] Ms Grinstead and Ms Obeid's working relationship started well. Ms Obeid travelled to New Zealand as part of introducing Ms Grinstead to the business and both described having high trust conversations as between senior HR people regarding various matters.

[12] However, not long after Ms Grinstead started Ms Obeid began to receive feedback from some stakeholders who said that Ms Grinstead's approach was not consistent with the corporate culture at Bunnings.

[13] For example, certain members of the management team had expressed concerns to Ms Obeid regarding Ms Grinsted's communication style because she had been heard openly criticising her colleagues and the business's ways of working, particularly in HR.

[14] Ms Obeid told the Authority that she consistently raised the feedback she received with Ms Grinsted in their weekly one-to-one's and in their scheduled reviews, which occurred four, nine and 12 weeks after Ms Grinsted's commencement. Ms Obeid said the feedback she provided Ms Grinsted was generally to do with her communication style and that she aimed to coach and encourage Ms Grinsted to engage with her colleagues in a more open-minded way, and to be more courteous in her communication.

[15] In her evidence to the Authority, Ms Grinsted acknowledged that at the 12-week review on 13 June 2025 Ms Obeid spoke with her about concerns had been raised with Ms Obeid by other senior leaders. Ms Grinsted felt the concerns were not fair interpretations of the interactions that were described to her at the time. At the same meeting, Ms Obeid also provided positive feedback she had received regarding other working relationships held by Ms Grinsted and other positive comments that had been made about her. Ms Obeid also told Ms Grinsted that she "had her back".

[16] Ms Grinsted said she felt confused by the feedback she had received in the meeting and was upset upon receiving it.

[17] Ms Obeid said that Ms Grinsted initially acknowledged concerns that were raised with her and expressed a willingness to change. Ms Grinsted, on one occasion messaged Ms Obeid to say that she was trying to reflect and understand how to do better, but felt frustrated with herself and with the feedback, to which Ms Obeid replied that she was willing to support her.

[18] Ms Obeid said that despite Ms Grinsted's having said that she would look to improve, she continued to receive negative feedback about Ms Grinsted's communication style from senior leaders in the business. Ms Obeid felt that the feedback demonstrated an ongoing pattern of behaviour which did not align with the company's expectation of Ms Grinsted as a senior people and culture leader. However, Ms Obeid considered these were matters best dealt with through informal coaching.

Events in Melbourne

[19] On 4 August 2025 Ms Grinsted was in Melbourne to attend a company conference. Ms Obeid and another colleague met with Ms Grinsted to discuss a restructure proposal that the Australian leadership team had decided to implement in New Zealand.

[20] During the meeting Ms Grinsted was informed of the content of the proposed change, and that it potentially involved redundancies. She was also asked to assist in a meeting the next day with Zoe Gill, General Manager Finance Business Partnering, and New Zealand Country Manager, Melissa Haines. Some of Ms Haines' team would be affected by the proposed change and it was senior management in Australia deciding on a change in New Zealand, so it was therefore important to properly discuss how best to go about it.

[21] On 5 August 2025 Ms Grinsted attended the meeting with Ms Gill and Ms Haines at which the change was discussed. Ms Grinsted's role in the meeting was to support both Ms Gill and Ms Haines with the discussion so as to move the process forward. Ms Grinsted said she did not speak much in the meeting other than to answer questions regarding the company's redeployment obligations. Ms Grinsted accepted that she was frustrated that she had not been included in discussions about the change earlier and she considered Ms Gill did not seem able to answer Ms Haines' questions about how the process would work despite having been briefed on the process by members of Ms Obeid's team in Australia.

[22] Ms Obeid told the Authority that after the meeting Ms Gill told her she felt "attacked" by Ms Grinsted's approach in the meeting and that she considered Ms Grinsted was not supportive. Ms Obeid also said that she had received word that Ms Gill had spoken to her manager about Ms Grinsted's approach, who had in turn spoken to Ms Obeid's manager, Chief People Officer Damian Zahara about it, who had then spoken to Ms Obeid.

[23] On 6 August 2025 Ms Obeid and Ms Grinsted met to discuss the feedback that had been provided by Ms Gill, among other operational matters. Ms Obeid told the Authority that her intention at the meeting was to provide Ms Grinsted with constructive feedback regarding her conduct and her alignment with the company's values and ways

of working. She said she wanted to support Ms Grinsted to understand the expectations of her role by providing Ms Gill's feedback.

[24] Ms Grinsted told the Authority that when Ms Obeid raised Ms Gill's feedback with her, Ms Obeid was furious that Ms Gill had said she felt "attacked" by Ms Grinsted. Ms Grinsted said that in the meeting Ms Obeid used an aggressive tone and that this was also reflected in her body language. Ms Grinsted said that Ms Obeid said "I don't know what to do with you" and "I can't connect with you", and also suggested Ms Grinsted was disengaged and not the right fit for the organisation. Ms Grinsted became upset.

[25] Ms Obeid's account of the meeting was that rather than attempt to address the concerns raised with her in relation to Ms Gill's feedback, Ms Grinsted was defensive and abrupt, and that she appeared angry and hostile. She denied suggesting that Ms Grinsted's employment should end, that Ms Grinsted was not a good fit or that she had run out of options. Ms Obeid said Ms Grinsted called her "a micromanager" and "passive-aggressive".

[26] At the end of the conversation Ms Grinsted said words to the effect that she "should just be given a package", which was a reference to being paid as part of a settlement for terminating her employment. Ms Grinsted said she asked for this in response to what she felt was a clear suggestion by Ms Obeid that she was no longer wanted in her role. In response Ms Obeid suggested that the meeting be paused so matters could be considered.

[27] An hour later the two met again. Ms Obeid said that she reiterated her concerns regarding Ms Grinsted's response in the earlier discussion but that she was conscious Ms Grinsted was away from home and that it was most appropriate for her to ensure she returned home safely. Ms Obeid said that she considered it best to revisit the conversation at a later stage so both parties had the opportunity to reflect and that she told Ms Grinsted she would schedule a meeting for this purpose.

[28] Ms Obeid told the Authority that it would have been within her delegated Authority to propose an exit arrangement to Ms Grinsted, but that she decided not to do so, despite Ms Grinsted's request for the one, because she considered it was more appropriate for what had become a heated conversation to reconvene at a later time.

[29] Ms Obeid and Ms Grinsted gave differing accounts of how the 6 August 2025 meetings transpired. However, it is clear that the meetings involved passing on negative feedback that had come from Ms Gill about Ms Grinsted's approach. It is also clear that the feedback provided was robust and was not well received by Ms Grinsted.

[30] Although the conversation was described by both parties as having been difficult and tense, I find on the balance of probability it is unlikely Ms Obeid suggested she wished to terminate Ms Grinsted's employment. Ms Grinsted was, by her own account exhausted from travel and emotional in the meeting and was receiving negative feedback. The issue being discussed, although significant in terms of the relationships involved, was not one that could reasonably be said to have been about whether Ms Grinsted could be trusted to perform her role and Ms Obeid did not make an offer to exit Ms Grinsted despite having the ability to do so.

[31] Accordingly I find Ms Obeid did not propose to end Ms Grinsted's employment, nor did she engage with Ms Grinsted's request for an agreed exit. Rather she proposed further discussions in Auckland in the near future.

[32] On 8 August 2025 Ms Grinsted provided a medical certificate signing her off work for a week.

The exchange of letters between solicitors

[33] Also on 8 August 2025, Ms Grinsted's solicitor wrote to Mr Zahara to raise concerns in her working relationship with Ms Obeid that she said were causing her distress. Ms Grinsted's claims place considerable reliance on the exchange of letters that ensued. It is therefore necessary to describe them in some detail.

[34] The 8 August 2025 letter focused on Ms Grinsted's view that she had been unfairly criticised by Ms Obeid. Particular alleged criticisms were cited in the letter and reference was made to the suggestion that Ms Grinsted had been "aggressive" in the course of the meeting with Ms Gill in Melbourne, which in the letter Ms Grinsted denied.

[35] The letter said that the alleged criticisms had no proper basis and Ms Grinsted was "entirely unaware of any concerns about her performance or conduct". It went on

to say that Ms Grinsted was suffering as a result of the unfounded criticism and that she was fearful her employment would be terminated without proper cause. Bunnings was asked to remedy the situation.

[36] On 12 August 2025, Bunnings' solicitors replied and said that early in Ms Grinsted's employment Ms Obeid had received negative feedback from stakeholders regarding her "working and communication style". Examples of topics on which feedback was said to have been received were given and the letter said that Ms Obeid had met with Ms Grinsted on multiple occasions to discuss these issues.

[37] In its 12 August 2025 reply, Bunnings also referred to the interactions with Ms Gill and the subsequent conversations with Ms Obeid and said its view was that Ms Grinsted was not meeting the standards expected of a senior employee at Bunnings. It said that it was considering commencing a formal performance improvement process.

[38] On 20 August 2025 Bunnings' solicitors again wrote to Ms Grinsted's solicitors. The letter provided additional detail of the concerns Bunnings said it held regarding Ms Grinsted's "performance, communication style and conduct since commencing". Examples of interactions with senior stakeholders at Bunnings were given. Notably, none of the examples provided amounted to an allegation of misconduct or were ever included by Bunnings in a formal performance improvement plan.

[39] At the conclusion of its letter, Bunnings outlined its expectations regarding how Ms Grinsted should engage with stakeholders and asked her to provide details of how she intended to improve her relationships with senior leaders and her intentions in relation to her ongoing role at Bunnings.

[40] On 22 August 2025 Ms Grinsted's solicitor replied to say Ms Grinsted was shocked to receive the company's 20 August 2025 letter, and she was unaware of any person other than Ms Obeid having an adverse view of her. Ms Grinsted's position was that she could not respond to the company's questions on how she would improve her relationships with senior leaders or her intentions regarding her role at Bunnings as she did not accept there was any valid underlying factual basis to the suggestion she had difficulty in her stakeholder relationships. Ms Grinsted then sought further information about a number of the examples of negative interactions with stakeholders that were set out in the 20 August 2025 letter. She said she needed that information before giving

comment on the examples given. In each case, Ms Grinsted maintained she had acted appropriately and sought to clarify factual positions.

[41] On 27 August 2025 and 28 August 2025 the parties exchanged further correspondence. Bunnings reasserted its concerns about the internal feedback it had received and the impact Ms Grinsted's denials may have on the ongoing relationship and Ms Grinsted continued to ask for particulars of the concerns held by Bunnings.

[42] In this final exchange of letters, Bunnings asked to meet Ms Grinsted to discuss its concerns and Ms Grinsted said it would be unfair to do so without particulars being provided. Ultimately the parties attended mediation some weeks later that did not resolve matters between them and Ms Grinsted lodged a statement of problem in the Authority on 3 October 2025.

Claim of exclusion from work activities

[43] Ms Grinsted said that after she raised issues on 8 August 2025, Ms Obeid spoke to her team about their pay reviews and an instance of work relating to a restructure that would usually have been hers to delegate was delegated past her to her team.

[44] Ms Obeid said that to the extent any work was allocated to Ms Grinsted's team this was purely to reflect operational requirements, and she had spoken to Ms Grinsted's team about their pay reviews to reassure them while Ms Grinsted was away on sick leave.

Ms Grinsted's unjustified disadvantage claims

[45] Ms Grinsted's unjustified disadvantage claims fall into five categories, each of which are dealt with below.

(i) *Was Ms Grinsted unjustifiably disadvantaged by the manner in which issues were raised with her, and did she have sufficient information regarding apparent concerns?*

[46] The core of Bunnings' concerns with Ms Grinsted related to how she was being received by certain stakeholders. A perception existed that she had not hit the right tone on various occasions and Ms Obeid told the Authority that concerns of this kind had been passed to Ms Grinsted as they had arisen so that she could be effective in her role.

[47] By the time of the correspondence between solicitors in August, each party had become more defensive in their position. Bunnings was concerned that issues it had raised with Ms Grinsted were ongoing and needed to be addressed, and Ms Grinsted believed she was being unfairly criticised and threatened with a performance improvement process or dismissal.

[48] The question that the Authority must determine is whether Ms Grinsted was disadvantaged by how Bunnings dealt with these issues and, if she was, whether that disadvantage was unjustified. Whether an action is justified is to be objectively determined by considering whether the employer's actions and how it acted were what a fair and reasonable employer could have done in all the circumstances at the time.¹ Justification does not require an employer to discharge a standard tantamount to perfection.

[49] Through Ms Obeid Bunnings raised a range of concerns with Ms Grinsted about her style and approach. None of these concerns were serious, in the sense that they were not disciplinary or otherwise destructive of Bunnings' trust in Ms Grinsted to perform her role. However, they were reasonably viewed by the company as matters that needed to be addressed, if for no other reason than to ensure that Ms Grinsted was able to operate effectively as a senior leader within the organisation.

[50] The interactions between Ms Obeid and Ms Grinsted on 6 August 2025 were heated in nature and no doubt impacted the working relationship. Ms Grinsted's comment that Bunnings should make her an offer to leave was demonstrative of her concern and unhappiness at the way things had gone in the discussion.

[51] I find Ms Obeid raised legitimate concerns with Ms Grinsted that had been escalated through layers of management and warranted discussion. This conversation was the critical context for the exchange between the parties' solicitors that then occurred in the coming weeks. All of those letters need to be read in the context of what went before them, which was a pattern of an issue arising, feedback being provided and support being offered by Ms Obeid.

¹ Employment Relations Act 2000, s 103A

[52] It may be the case that the approaches taken by Ms Grinsted and Ms Obeid respectively were not perfect in each instance of this cycle. Ms Obeid may have been able to do more to support Ms Grinsted and Ms Grinsted may have been able to change aspects of her work style that had not gelled well with some people she dealt with within the organisation.

[53] Although robust, Bunnings' response to Ms Grinsted, as delivered through its solicitor's letters was within the range of what a fair and reasonable employer could have done in these circumstances. Ms Grinsted's denials, through her solicitor, of there being any foundation to the company's concerns, despite her having previously acknowledged receipt of analogous feedback, would not have assisted in resolving matters and the questions the company posed in its letter of 20 August 2025 created an opportunity for de-escalation that Ms Grinsted chose not to take.

[54] In amongst the vicissitudes of corporate life there will be occasions where negative feedback is received by management about a person and needs to be acted on. The actions taken in response to such feedback are for an employer to determine, provided they do so in a fair and reasonable way. I find this was the case with the matters raised by Bunnings with Ms Grinsted and that she was not unjustifiably disadvantaged by Ms Obeid's approach.

(ii) *Was Ms Grinsted unjustifiably disadvantaged by being excluded from work within her field of responsibility?*

[55] Ms Obeid's conversations with Ms Grinsted's team regarding their pay and causing work to be allocated to someone in her team, were actions which fell within the prerogative of her position. Had Ms Obeid repeated these sorts of actions such that a pattern emerged of undermining Ms Grinsted, this would likely have been unreasonable.

[56] This was, however, not the case and Ms Grinsted was not unjustifiably disadvantaged by Ms Obeid's actions in this context. This element of Ms Grinsted's disadvantage claim is therefore not established.

(iii) *Was Ms Grinsted unjustifiably disadvantaged by not receiving a bonus?*

[57] Ms Grinsted was entitled to participate in Bunnings' discretionary annual short term incentive plan (STI), which was based on the financial year 1 July to 30 June.

[58] The STI comprises company and individual performance components which are equally weighted, and any payments are prorated based on the time worked over the year. The individual component is determined based on the employee's annual performance rating which then operates as a 'gate' to participation in the scheme.

[59] Payment under the scheme is discretionary, and Bunnings must exercise any such discretion in a fair and reasonable way and in accordance with the contractual and policy documents between the parties.

[60] Bunnings' position was that Ms Grinsted was not entitled to payment under the incentive scheme because she had not achieved or exceeded expectations. Ms Obeid said she had raised issues on multiple occasions with her about her communication style and working relationships but that her behaviour did not improve. Under the incentive plan, if the employee does not meet individual expectations, the employee is not entitled to the company component of the bonus.

[61] On 16 September 2025 Bunnings communicated to Ms Grinsted via its solicitors that it would not exercise its discretion to pay her an incentive due to dissatisfaction with her performance during the relevant period.

[62] The performance review cycle at Bunnings takes place in around June or July each year. Bunnings did not engage with Ms Grinsted regarding her performance rating during those months.

[63] Although efforts were made to meet with her in August at which her performance rating could have been discussed, no proposal was put to her regarding her performance rating and she was not formally awarded one by Ms Obeid.

[64] Accordingly, Bunnings did not take a step required to assess Ms Grinsted's eligibility for a bonus. A fair and reasonable employer would follow its own policies, particularly where they relate to remuneration, and would have allocated Ms Grinsted a performance rating.

[65] Failing to take this step was not something a fair and reasonable employer could have done and, in this regard, Ms Grinsted was unjustifiably disadvantaged in her employment. She is therefore entitled to consideration of remedies including the reimbursement of a sum equal to money lost by her as a result of the grievance.² I therefore turn to consider what, on the balance of probabilities, Ms Grinsted lost as a result of Bunnings' unjustified action.

[66] Despite the events in Melbourne and the subsequent exchange of correspondence between solicitors, the relationship between Ms Grinsted and Bunnings was not entirely negative. Ms Grinsted had achieved strong results in some areas of her role and had developed relationships across the business, including with Ms Haines. Although there were concerns about her communication style and approach, they were never treated as formal issues and were instead treated as coaching opportunities.

[67] Based on the information received from the parties during the investigation meeting, it is more likely than not that Ms Grinsted would have been treated as having, to use the language of the STI scheme, "areas to improve" and that she may have been awarded up to 75% of the individual performance component available under the STI scheme.

[68] I therefore order Bunnings to pay Ms Grinsted her entitlement under the STI as if she had achieved an individual performance outcome of 75% for the relevant period. The amount she should have received as a bonus is calculated by applying this individual component rating and the evidence received on the company's performance to the STI formula, and then pro-rating the result to reflect the fact Ms Grinsted had been employed for five months. The outcome of that calculation is \$11,820 (gross).

(iv) Was Ms Grinsted unjustifiably disadvantaged by not having her salary increased from 1 September 2025?

[69] Ms Grinsted claimed that representations were made to her by the recruiter during the recruitment process that she would receive a pay raise in September. Ms Obeid, the recruiting manager, denied that any such representations were ever authorised by Bunnings.

² Employment Relations Act 2000, s 123(1)(b).

[70] Ms Grinsted's employment agreement recorded that it represented the entire agreement between the parties and that it superseded all prior arrangements, agreements and understandings. It did not include an obligation for Bunnings to increase her pay in September 2025, which would have only been approximately six months after her start date.

[71] No evidence was received by the Authority that supports the conclusion that the parties intended to supersede the entire agreement provision in the employment agreement.

[72] Even if a performance rating had been entered for Ms Grinsted, it would have been open to Bunnings as a fair and reasonable employer not to increase her salary.

[73] Accordingly, Ms Grinsted's claim that she was entitled to a salary increase on from 1 September 2025 has not been established.

(v) *Did Bunnings comply with its contractual and good faith obligations to Ms Grinsted?*

[74] All parties to employment relationships are required to comply with the good faith duties set out in s 4 of the Act and the relevant employment agreement.

[75] Except as may be connected to the position I have already dealt with above regarding Ms Grinsted's participation in the STI scheme, no breach of Ms Grinsted's employment agreement or Bunnings' good faith obligations has been established.

Should Ms Grinsted be awarded special damages?

[76] Ms Grinsted has sought an award of special damages in respect of the legal fees she incurred prior to lodging her statement of problem in the Authority. She claimed that these fees were reasonable and were necessarily incurred after her interactions with Ms Obeid in Melbourne.

[77] In appropriate cases, the Authority may award special damages in relation to legal fees incurred prior to the commencement of litigation.³ The circumstances where special damages may be awarded include where an employer has commenced a baseless process against an employee.

[78] Given my findings regarding what happened in the meeting on 6 August 2025 and the fact that it was Ms Grinsted that proposed she be offered an exit arrangement, it would not be reasonable in all the circumstances to impose an obligation on Bunnings to pay legal fees she incurred prior to the commencement of litigation.

[79] Ms Grinsted's application for special damages is therefore declined.

Remedies

[80] Ms Grinsted has successfully established that she was unjustifiably disadvantaged by Bunnings' failure to input an individual performance rating and to pay her bonus. It is therefore only on this head that she is entitled to consideration of compensation for injury to her feelings under s 123(1)(c)(i) of the Act.

[81] Ms Grinsted learned in September 2025 that she was not receiving a bonus because she did not receive either the money or a letter confirming her rating as other employees around her did. It was only later, on 30 October 2025, that her rating of "Needs to Change" was entered into the system by an administrator.

[82] The posting of the rating on 30 October 2025 took place after Ms Grinsted's statement of problem was lodged and is therefore not within the scope of the Authority's investigation.

[83] However, Ms Grinsted was upset by not receiving a bonus and she understandably felt hurt by the unfairness of not receiving a performance rating at the correct time.

[84] Taking into account the information provided to the Authority, in all the circumstances a modest award of \$5,000.00 under s 123(1)(c)(i) for hurt and

³ *Binnie v Pacific Health Limited* [2002] 1 ERNZ 438 (CA), *Stormont v Peddle Thorp Aitken* [2017] NZEmpC 71

humiliation is an appropriate quantification of the harm suffered by Ms Grinsted in that instance.

Contribution

[85] Under s 124 of the Act, where the Authority awards remedies for a personal grievance it must consider whether the actions of the employee contributed in a blameworthy way to the situation giving rise to the grievance and, if so, reduce remedies accordingly.⁴ The employee's actions must have, when assessed in a commonsense way, contributed to the situation giving rise to the grievance.

[86] Bunnings' obligation to comply with its own policy in relation to the STI scheme was not affected by any action by Ms Grinsted. Her actions were not wrongful or blameworthy so as to mean any reduction to the remedies awarded would be appropriate. I therefore make no reduction for contribution.

Costs

[87] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves on the basis the Authority undertook a one day investigation meeting in relation to this matter.

[88] If they are not able to do so and an Authority determination on costs is needed Ms Grinsted may lodge, and then should serve, a memorandum on costs within 28 days of the date of issue of the written determination in this matter. From the date of service of that memorandum Bunnings would then have 14 days to lodge any reply memorandum. Costs will not be considered outside this timetable unless prior leave to do so is sought and granted.

[89] The parties could expect the Authority to determine costs, if asked to do so, on its usual notional daily rate unless particular circumstances or factors required an upward or downward adjustment of that tariff.⁵

⁴ Employment Relations Act 2000, s 124.

⁵ See www.era.govt.nz/determinations/awarding-costs-remedies.

Orders

[90] For the reasons set out above within 28 days of the date of this determination, Bunnings is ordered to pay Ms Grinsted:

- (i) \$5,000.00 in compensation under s 123(1)(c)(i) of the Act; and
- (ii) \$11,820.00 (gross) under s 123(1)(b) of the Act.

Matthew Piper
Member of the Employment Relations Authority