

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

[2014] NZERA Wellington 134  
5389941

BETWEEN            GAVIN BAILEY  
                                 Applicant  
  
AND                    PTS LOGISTICS LIMITED  
                                 Respondent

Member of Authority:    Michele Ryan  
  
Representatives:        Applicant in person  
                                 Russell Walker, Counsel for Respondent  
  
Investigation Meeting:    7 October 2014 at Palmerston North  
  
Submissions Received:    Oral submissions on the day of the investigation from  
                                 the Applicant and the Respondent  
  
Determination:         23 December 2014

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1]    Mr Gavin Bailey was employed by PTS Logistics Limited (PTS) as a truck driver for approximately 4½ months before he was summarily dismissed on 15 August 2011 after an incident involving the Police on 6 August 2011.

[2]    Mr Bailey alleges a range of procedural flaws in the way that he was dismissed and says that the incident involving Police occurred whilst he was not working for hire or reward and should be of no concern to his employer.

[3]    PTS says Mr Bailey's dismissal was justified and that its decision to dismiss was an action that a fair and reasonable employer could make in all the circumstances.

## Summary of relevant events

[4] Mr Bailey commenced his employment with PTS on 5 April 2011 as a casual on call truck driver<sup>1</sup>. PTS is a successful business specialising in transporting large machinery throughout New Zealand.

[5] At that time Mr Bailey had approximately 18 years experience driving large trucks and was considered an experienced driver. Mr Bailey's work involved driving from one region to another including between the North and South Islands and he was often away from home.

[6] Prior to the weekend of 6/7 August 2011, Mr Bailey received permission from PTS Transport Manager, Mr Miers, to stay two nights in Taupo starting on 5 August to attend his daughter's 18th birthday on 6 August.

[7] On the morning of 6 August he discovered that the truck's radiator hose had split. After obtaining permission from Mr Miers by phone, he and a friend purchased and installed a hose to remedy the problem. The trailer was disconnected from the cab of the truck and Mr Bailey invited his son and his friend's partner to join them while they took the cab "*around the block*" to test the effectiveness of the repair.

[8] During the test run Mr Bailey was stopped by police for a routine roadside vehicle check. He was unable to produce his log book and the situation between Mr Bailey and the Police Officer quickly deteriorated. He was asked to remain stationary whilst the Police Officer undertook a vehicle inspection. The Officer then sought to obtain information from Mr Bailey's friend. Mr Bailey regarded those inquiries as unreasonable and drove away. Mr Bailey was pursued by a patrol car for approximately half a kilometre until he stopped, got out of the cab and approached the Police Officer. There is a dispute about what exactly transpired between them at that point but the Police Officer radioed for assistance. Mr Bailey returned to the cab. Soon after he was pepper sprayed for resisting arrest and was held in police custody for approximately 3-4 hours.

[9] On release Mr Bailey rang Mr Miers and informed him of the incident.

[10] On Monday 8 August 2011 the General Manager of PTS, Mr Denis Wan, received a "*Police roadside inspection*"<sup>2</sup> report which advised the following:

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<sup>1</sup> Terms and conditions of employment were contained in a written employment agreement.

- *Driver failed to produce a log book on demand,*
- *Driver arresting for failing to remain stopped,*
- *Passenger was arrested for failing to supply details.*

[11] Mr Wan considered the matter was serious and contacted Mr Miers who relayed the events as portrayed to him by Mr Bailey. Mr Wan then contacted the Police Officer involved, Constable Trevor Pearce, and was given a verbal summary of what the Police said had occurred.

[12] Several days later on 11 August 2011 Mr Wan engaged in an email exchange with Constable Trevor Pierce as follows:

*Morning Trevor, as per our telephone conversation, are you able to forward an outline of the basic facts regarding the incident which occurred in Taupo on Monday 8 August to enable the company to carry out its own investigation and possible disciplinary hearing.*

*Regards,  
Denis Wan*

[13] Constable Trevor Pierce responded as follows:

*Hi Dennis. This is a copy of the Police Caption/summary. This summary of facts is what is read to the Court once the defendant has either pled guilty or been found guilty. Only the relevant facts are included.*

*As per our conversation, there were 3 passengers in the vehicle with him. A passenger was also arrested and has been charged with failing to supply details. He gave his occupation as a Mechanical Engineer. His home address is [...].*

*The other occupants were a female of around 20 to 25 years and a boy of about 12 years old.*

*When initially stopped Bailey stated he was giving the vehicle a test run as he and the mechanic had just done some work on it.*

*At the point he first said he was leaving and was told not to, he said words to the effect "do you think you're big enough to stop me".*

*Also when he stopped after being followed for 500 metres or so he came back to the cab of my vehicle walking quickly and telling me not to hide in the vehicle. I believe if I had gotten out of my vehicle at that point he would have likely have attempted to assault me.*

*He was pepper sprayed when he wouldn't get out of the cab of the truck after he was told he was under arrest. Hope this helps. Let me know if there is anything else you need. Regards. Trevor*

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<sup>2</sup> Receipt of investigation report following a 'Roadside Inspection' is an expected event

[14] Constable Trevor Pierce sent through the Caption Summary/Summary of Facts document which includes the following information:

***Caption Summary***

*POLICE v Gavin William BAILEY*

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*CHARGE Failed to Remain Stopped  
Section 52(1)(c) Land Transport Act 1998  
Penalty \$10,000*

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***Summary of Facts***

*At 1.10pm on Saturday the 6th of August, 2011 the defendant BAILEY was the driver of an international heavy goods service vehicle, ...*

*This vehicle was stopped by Police on Centennial Drive in Taupo for a routine check.*

*During the stop enquiries were made about the defendant's log book.*

*At this point he became angry and threatened to drive off and was warned not to do so.*

*While Police were attempting to obtain details from a passenger in the vehicle the driver said "I'm outta here".*

*At this point he was again told by Police not to drive off, but did so anyway.*

*He was followed by a marked patrol vehicle with red and blue lights and siren.*

*After about 500m he stopped. This time in the centre of the lane he was driving in. After around 20 seconds he moved the vehicle off to the left side of the road.*

*When further Police staff arrived he was arrested during which he was pepper sprayed.*

*When spoken to the defendant stated he had "lost it" when he was spoken to about his log book.*

...

[15] On 12 August 2011 Mr Wan drafted a letter inviting Mr Bailey to a disciplinary meeting in the following terms:

*Dear Gavin,*

*We wish to meet with you to discuss matters concerning your work performance/conduct.*

*Please advise whether you will be available to meet on Monday 15 Aug 11 at 8.30 or suggest a time that would be more suitable. If I do not hear from you before 0830 Monday 15 Aug, I will assume the meeting is confirmed.*

*The area of concern is:*

***1. Your conduct at a recent Police check on Saturday 6 Aug 11.***

...

[16] The letter further advised Mr Bailey that would be given every opportunity to provide an explanation and that this would be considered before any decision was reached. He was encouraged to have a support person or representative present at the meeting. In its conclusion the letter stated that if the *“allegation of misconduct...is established, disciplinary action may be taken and your employment may be in jeopardy”*.

[17] Mr Bailey reports he did not receive the letter until Saturday 13 August 2011. In any event Mr Bailey says that on the morning of 15 August 2011 he briefly spoke with Mr Miers immediately before the meeting. He says Mr Miers told him *“not to worry”* and that he *“was only getting a warning and would be stood down for a couple of days”*.

[18] Mr Bailey met with Mr Wan and with Mr Kevin Peru (who no longer works for the company) at 8-30am on Monday 15 August 2011. A template style *“Interview Record”* was produced in evidence, as well as a summary of the content of the investigation meeting. Mr Bailey says that the *“Interview Record”* is not entirely accurate although it is agreed that the summary notes fairly reflect the topics discussed during the meeting.

[19] At the commencement of the meeting Mr Bailey set out his version of events with Police on 6 August 2011. Mr Wan then provided Mr Bailey with a copy of the ‘Caption Summary/Summary of Facts’ document and advised him that there were discrepancies between his account and that of the Police. It is clear from the summary notes that Mr Bailey conveyed his displeasure at finding PTS having received information from the Police which had not been provided to him. Mr Bailey declined to accept the document and Mr Wan read the contents of it to him.

[20] There is no dispute that Mr Bailey broadly accepted the description of events listed in the Summary of Facts.

[21] Mr Wan says Mr Bailey's attention throughout the meeting was focussed "*on the rights and wrongs*" of Police actions whereas Mr Wan wished to discuss the nature of the events themselves. At the Authority's investigation meeting Mr Bailey says that he was (and remains) concerned about the lawfulness of the actions taken by the Police on 6 August 2011 and that this was the predominant issue for him during the meeting.

[22] The parties canvassed whether or not Mr Bailey was required to furnish his log book when requested by Police. Mr Bailey held the position that he was not required to carry a log book when mechanically testing a vehicle (although during the Authority's investigation he accepted that he was mistaken in that view).

[23] Towards the end of the meeting Mr Wan told Mr Bailey that Constable Pierce had reported that he was frightened by Mr Bailey to the extent that he had locked the doors of the patrol car and had called for back-up. Mr Bailey rejected any proposition that he intimidated Constable Pierce but agreed "*I was wild*" [with him].

[24] Mr Wan raised concerns about the impact Mr Bailey's behaviour may have on other drivers and the company's reputation. Mr Bailey denied that his actions brought PTS into disrepute and stated that the truck was not marked with the PTS logo and therefore no one would be aware a PTS vehicle was involved.

[25] The meeting lasted 35 minutes and was adjourned for 10 minutes to consider Mr Bailey's response. Mr Wan's says he was very concerned that Mr Bailey had "*lost control*" and had no confidence that Mr Bailey would not repeat similar behaviour (perhaps with staff or customers) in the future. He concluded that Mr Bailey's conduct had potential to bring the company into disrepute and that trust and confidence between him and PST had been irreparably damaged.

[26] The meeting was reconvened and Mr Bailey was advised he was dismissed with immediate effect. Mr Bailey refused to sign the Interview Record interview as he was "*not guilty*", and left.

[27] Mr Bailey approached PTS on two occasions over the following year to see if he could have his job back, but was unsuccessful. He says he was told that Mr Wan

wanted to make “*an example of him*” but agreed during the investigation meeting that Mr Wan did not make this statement to him<sup>3</sup>.

### **The Authority’s investigation**

[28] Mr Bailey raised a personal grievance claiming his dismissal was unjustified on 20 September 2011. He did not pursue his claim until after he successfully defended the charge of “*Failed to Remain Stopped*” in the Taupo District Court in May 2012, and after the Independent Police Conduct Authority (IPCA) concluded its investigation<sup>4</sup> into Mr Bailey’s complaints against Police.

[29] Mr Bailey’s statement of problem was lodged with the Employment Relations Authority in Auckland. Preparations were made for an investigation meeting in that region until it was identified that Palmerston North was the most convenient location to the events that gave rise to the employment relationship problem. Pursuant to Regulation 13(2)<sup>5</sup> the matter was transferred to the Authority’s offices in Wellington for scheduling of an investigation in Palmerston North.

[30] Mr Bailey represented himself at the Authority’s investigation. He provided written evidence. Mr Wan and Mr Miers attended on behalf of PTS having furnished detailed written statements. I have carefully considered all the evidence received but as is permitted by s.174 of the Employment Relations Act I have not recorded all the information provided and have confined this determination to stating findings of fact and law necessary to dispose of the matter.

[31] It was not difficult to form an impression that underpinning Mr Bailey’s claim is his view that the dismissal of the criminal charge against him equates to a finding that his dismissal must be unjustifiable. At the beginning of the Authority’s meeting it was explained that the outcome of a criminal proceeding on a particular matter does not affect the justifiability of an employer’s decision to dismiss an employee about the same matter. In any event I note PTS does not purport to have dismissed Mr Bailey because he “*Failed to Remain Stopped*”.

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<sup>3</sup> Mr Wan strongly denies he made any such comment to anyone

<sup>4</sup> 4 February 2013. Fourteen allegations were made and investigated. Thirteen allegations were not upheld but IPCA found Mr Bailey’s privacy had been breached.

<sup>5</sup> Employment Relations Authority Regulations 2000

[32] One of the concerns set out in Mr Bailey's statement of problem is that PTS received the 'Caption Summary/ Summary of Facts' document from Constable Pierce Police on 11 August 2013. His concern is set out in the following way:

*I was charged with an offence which I was found not guilty. The Police and the General Manager illegally corresponded and a decision was made on illegal paper work.*

[33] The matter has been subject to an investigation by the IPCA. It found that PTS was entitled to a Summary of Facts "*as the company had a direct interest in the event due to its vehicle being involved*" but not the 'Caption Summary' portion of the document which should only become public "*after the defendant has entered a guilty plea and prior to sentencing*". Police have apologised for the release of the Caption Summary. At the Authority's investigation Mr Bailey was advised that the breach to his privacy is not a matter that can be remedied by the Authority. I understand that Mr Bailey is pursuing this matter with the Privacy Commissioner<sup>6</sup>.

### **The issues**

[34] The Authority is required to assess on an objective basis whether the actions of PTS were what a fair and reasonable employer could have done in all the circumstances at the time the dismissal occurred<sup>7</sup>. In essence, not only must the decision to dismiss be based on reasonable grounds but the way PTS undertook to make the decision must be fair.<sup>8</sup>

[35] In applying s103A(3) of the Employment Relations Act the Authority must give consideration to:

- i. whether, having regard to the resources available to the employer, the employer sufficiently investigated the allegations against the employee before dismissing or taking action against the employee; and*
- ii. whether the employer raised the concerns that the employer had with the employee before dismissing or taking action against the employee; and*
- iii. whether the employer gave the employee a reasonable opportunity to respond to the employer's concerns before dismissing or taking action against the employee, and*

<sup>6</sup> Mr Bailey accepted this proposition during cross-examination

<sup>7</sup> Section 103(2) Employment Relations Act 2000

<sup>8</sup> *NZ Food Processing IUOW v Unilever NZ Ltd* [1990] 1 NZILR 33,

*iv. whether the employer genuinely considered the employee's explanation (if any) in relation to the allegations against the employee before dismissing or taking action against the employee.*

*(4) In addition to the factors described in subsection (3), the Authority or the court may consider any other factors it thinks appropriate.*

*(5) The Authority or the court must not determine a dismissal or an action to be unjustifiable under this section solely because of the defects in the process followed by the employer if the defects were-*

*(a) minor, and*

*(b) did not result in the employee being treated unfairly.*

[36] The particular issues to be determined in the matter then are:

- Was the process that PTS's undertook before it dismissed Mr Bailey fair;
- Did PTS have sufficient grounds to dismiss;
- If Mr Bailey's dismissal was unjustified, did he contribute to the situation which led to his dismissal

### **Was the process fair?**

[37] Looking at the process leading to Mr Bailey's dismissal, Mr Bailey first says that immediately prior to the disciplinary meeting he was advised by Mr Miers that he "*would only receive a warning and a two day stand-down*". He says it was unfair of PTS to then dismiss him.

[38] Mr Miers' written statement strongly denies any such statement was made to Mr Bailey. He says he was not involved with the disciplinary process so was not in a position to make this type of statement.

[39] I am not persuaded by Mr Bailey's account for the following reasons. During the Authority's investigation it was apparent that Mr Bailey is able to confidently assert himself when he considers he has been treated unfairly. When told of his dismissal Mr Bailey did not protest that he had been informed he would receive a lesser penalty. I consider it more likely that Mr Bailey would have immediately conveyed Mr Miers' forecast to Mr Wan if that had been the case. I am further persuaded that the issue would have been reported as part of the factual matrix when his personal grievance was raised in writing a month later and in his statement of

problem. No mention of this material fact was included in either of those documents. On balance I do not accept this aspect of Mr Bailey's claim.

[40] Next, Mr Bailey says he was not provided with a reasonable opportunity to obtain representation in circumstances when he had only two days' notice to attend the disciplinary meeting. I accept that two days, particularly over a weekend period, may be insufficient for an employee facing a disciplinary meeting to obtain suitable representation. However, it is clear from the contents of the letter that Mr Bailey was able to postpone the meeting if the timing was unsuitable to him for any reason. I am unwilling to accept that Mr Bailey was treated unfairly by the scheduling of the disciplinary meeting in these circumstances.

[41] There are, however, some aspects to PTS's procedure which I consider are critical. First, the letter inviting Mr Bailey to a disciplinary meeting set out PTS's concern in only very general terms as follows: "*Your conduct at a recent Police check on 6 August 2011.*" The second is about the information Constable Pierce sent which formed PTS's concern and when this was provided for Mr Bailey to respond to it.

[42] With regard to the provision of information, Mr Wan advised that he did not provide Mr Bailey with a copy of the Police Caption/Summary of Facts or the email from Constable Pierce of 11 August before the disciplinary meeting because he wanted to provide Mr Bailey with "*free rein to tell his side of the story*" and to keep it "*neutral*".

[43] I accept Mr Wan's assessment that he has an above average understanding of disciplinary processes (in an employment context) and I have no doubt that he genuinely endeavoured to conduct a fair process. However it is clear from Mr Wan's evidence that a significant topic of concern (and the most noteworthy of actions which led to Mr Bailey's dismissal) was Officer Pierce's account that he became so fearful of Mr Bailey's behaviour that he had locked himself in the patrol car until assistance arrived. That information had been relayed to Mr Wan during a telephone discussion with Constable Pierce on 8 August, and in the email of 11 August, but not communicated to Mr Bailey until half way through the meeting on 15 August 2011.

[44] Given the importance of that information and the emphasis Mr Wan placed on it, a prudent approach would have been to either specifically record that concern in the letter of 12 August (received by Mr Bailey on 13 August), or Constable Pierce's email

could have accompanied the letter. Alternatively Mr Wan could have produced the email and Summary of Facts during the meeting and allowed an adjournment for Mr Bailey to consider the material and/or obtain advice before responding to it. None of these approaches was taken. Instead Mr Bailey was effectively called to answer prejudicial information without any notice that the issue was of concern, or sufficient time to properly consider and form his response. I accept Mr Bailey's evidence that he felt ambushed by production of the Summary of Facts and Mr Wan's re-telling of Constable Pierce's account in the course of the disciplinary meeting.

[45] It is settled law that a key aspect of fairness is that the employee must be properly informed of the employer's particular concerns and have a proper opportunity to respond before a decision is made<sup>9</sup>. A fair and reasonable employer cannot reasonably expect an employee in a disciplinary setting to accurately anticipate or guess what the primary concerns of an employer may be.

[46] I do not accept PTS's submission that the events of 6 August 2011 were so extraordinary that Mr Bailey "*knew exactly*" the issues of concern for PTS, such that its minimalist approach to how it conveyed its concerns and provided relevant information, was acceptable. Unsurprisingly, Mr Bailey's focus during the disciplinary was on whether the charge of "*Failing to Remain Stopped*" could be proved. Without specifying its particular concerns I consider it was unreasonable of PTS to presume Mr Bailey was able to properly address those matters.

[47] Nor am I willing to accept that PTS's omission was a minor defect and did not result in Mr Bailey being treated unfairly. Section 103A(5) provides that the Authority must not determine a dismissal as unjustifiable solely because of defects in a process if the defects are minor *and* did not result in the employee being treated unfairly.

[48] The failure to properly particularise concerns and provide information relevant to those concerns cannot be regarded as minor. Both limbs of the statutory test have been not been satisfied and I am unable to ignore PTS's procedural defect.

[49] Overall, the manner in which the disciplinary process was conducted was not the action of a fair and reasonable employer in all the circumstances. In this respect I

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<sup>9</sup> *Gwilt v Briggs & Stratton New Zealand Ltd* [2011] NZEmpC 140 at [71]-[79]

find the way in which Mr Bailey was dismissed was procedurally unfair and he has a personal grievance.

## Remedies

### *Reimbursement of wages*

[50] Mr Bailey seeks reimbursement of wages for 16 weeks; the period of time he says it took to find alternative work. He requests also to be compensated for humiliation, loss of dignity and injury to feelings.

[51] Section 123(1)(b) provides that an employee dismissed unjustifiably may be reimbursed a sum equal to the whole or any part of the wages or other money lost by the employee “*as a result of the grievance*”. Section 128(2) of the Act stipulates that the Authority must order the employer to pay to the employee the lesser of the sum equal to the lost remuneration or three months’ ordinary time remuneration.

[52] Where an employee seeks reimbursement of wages the employee should attempt to reduce any losses as a result of the dismissal. In *Allen v Transpacific Industries Group Limited (t/a Medismart Limited*<sup>10</sup>) Chief Judge Colgan described an employee’s obligation in the following way:

“...dismissed employees who intend taking personal grievances must keep good and complete records of their attempts to mitigate their losses or otherwise or such losses that they may wish to claim from the employer.

...

*However, dismissed employees are not only under an obligation to mitigate loss but to establish this in evidence if called upon. This will require, in practice, a detailed account of efforts made to obtain employment including dates, places, names, copies of correspondence and the like. If alternative employment is obtained, details of this will also need to be retained for the hearing including dates of employment, amounts paid and reasons for ceasing employment.*”<sup>11</sup>

[53] With regards to an employee’s obligation to mitigate loss, Judge Ford observed in *Radius Residential Care Limited v McLeay*<sup>12</sup> that “*The Court should not be left to speculate or guess.*”

[54] Despite a clear request during a case management call that information to establish and support any attempts Mr Bailey made to find alternative employment

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<sup>10</sup> (2009) 6 NZELR 530

<sup>11</sup> *Ibid* at [78]

<sup>12</sup> [2010] NZEmpC 149 at [51]

(between his dismissal and re-employment) would be required, no additional evidence was presented and Mr Bailey did not detail what, if any, other jobs he applied for. I have been unable to properly assess whether Mr Bailey's losses were due to his dismissal or if he sought to mitigate his loss. In these circumstances I decline to make an order for reimbursement of wages.

### *Compensation*

[55] Compensation for hurt and humiliation may be awarded to address non-economic damages for distress, humiliation and injury to feelings. Mr Bailey gave limited information about these matters and his evidence centred on the financial impact the dismissal had on him. Nonetheless, I accept that he was affected by the sudden loss of his employment and felt humiliated at the prospect of telling family members of the event. Subject also to an assessment as to contributory behaviour I assess that an award of compensation of \$5,000 is appropriate.

### *Contribution*

[56] I am required to assess whether Mr Bailey's actions contributed to the situation that led to his dismissal<sup>13</sup>.

[57] I have not made findings as to whether PTS had substantive grounds to dismiss because I have found his dismissal to be procedurally unfair. Mr Bailey contends that his actions on 6 August 2011 occurred when he was not working and therefore not relevant to his claim.

[58] It is well established law that conduct that occurs outside the workplace can give rise to disciplinary action including dismissal<sup>14</sup>. Irrespective of whether Mr Bailey was actively engaged in paid work for PTS, he was in control of and responsible for a vehicle registered under PTS's name at the time the incident occurred. I find there was a clear nexus between his behaviour and PTS's business at that time Mr Bailey's altercation with Police occurred.

[59] During the disciplinary meeting Mr Bailey conceded that the events detailed in the Summary of Facts occurred. There is no dispute that he failed to produce his log

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<sup>13</sup> Section 124

<sup>14</sup> *Hallwright v Forsyth Barr* [2013] NZEmpC 202

book on request, and that he resisted arrest which resulted in his being pepper sprayed.

[60] At the Authority's meeting Mr Bailey argued that he had only "*growled*" at Constable Pierce. Despite direct questioning Mr Bailey was unwilling to describe what he meant by that statement or give precise details about what he said to Constable Pierce. I accept Mr Wan's assertion that Mr Bailey has down-played his exchange with Constable Pierce. He says (which I accept) that Mr Bailey was "*frank and open*" at the disciplinary meeting but considers Mr Bailey also glossed over his actions towards Constable Pierce during that meeting.

[61] Mr Bailey's admits he "*was wild*" when he approached Constable Pierce. He says Constable Pierce "*hid*" in his car at this point.

[62] Constable Pierce had verbally reported to Mr Wan (over the telephone) that he was frightened and had locked the car doors. In his email of 11 August he stated that anticipated he would be assaulted if he got out of the car.

[63] In circumstances where PTS was confronted by two contrasting versions of an interaction between two individuals (and no other witness to the event) I consider PTS was entitled to prefer Constable Pierce's account based on what is more likely to have happened.

[64] Mr Bailey continued to debate the reasonableness of his actions at the Authority's investigation however I have no doubt that there is a causal connection between his conduct on 6 August 2011 with Police and the basis for PTS's decision to dismiss. I consider that conduct can be confidently characterised as blameworthy and that Mr Bailey significantly contributed to the situation which led to his dismissal. The sum awarded as compensation for distress and humiliation is reduced by 80% as a consequence. I note that if Mr Bailey had been awarded reimbursement of wages that sum would be proportionally reduced by 80% also.

### **Orders**

[65] Pursuant to s.123(1)(c)(i) PTS Logistics Limited is ordered to pay Mr Bailey the sum of \$1,000.

**Costs**

[66] Costs are reserved.

Michele Ryan  
Member of the Employment Relations Authority