

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2025] NZERA 782
3303540

BETWEEN GLENICE COOPER
Applicant

AND SUCCESS REALTY
LIMITED
Respondent

Member of Authority: Claire English

Representatives: Fiona Dalziel, counsel for the Applicant
Jeremy Sparrow, counsel for the Respondent

Investigation Meeting: 13 August 2025 in Hamilton

Submissions received: 28 August and 18 September 2025 from Applicant
11 September 2025 from Respondent

Determination: 3 December 2025

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The applicant, Ms Glenice Cooper, worked as a Marketing Manager for Mr Fraser-Jones, as part of the real estate team working for the respondent Success Realty Limited (SRL). On 19 December 2023, Mr Fraser-Jones unexpectedly told Ms Cooper that her job was at an end and she was not to work, but that she would be paid to the end of January 2024.

[2] Ms Cooper accordingly raised personal grievance claims. Her original claims before the Authority included a claim of unjustified dismissal, unjustified disadvantage due to a claim that her annual leave had been paid incorrectly, and she sought remedies accordingly. I note that a bald reference to penalties was made in the statement of problem, but was not expanded upon further, including in any submissions made by either party following the investigation meeting. SRL raised counterclaims that Ms Cooper breached her employment agreement and/or duties of good faith by failing to follow lawful and reasonable instructions in relation to refusing to transfer SRL's information from her work laptop onto SRL's IT server, and that she irretrievably deleted SRL's information that she was instructed to return. Likewise, this was not expanded upon further.

[3] As at the time of the investigation meeting, I record that SRL accepted that Ms Cooper's dismissal was unjustified, and Ms Cooper withdrew her claim for unjustified disadvantage and related arrears.

[4] Accordingly, and by consent, the matters remaining to be determined are the remedies properly awarded to Ms Cooper in all the circumstances. Ms Cooper claims remedies of:

- a. \$75,000 in compensation for hurt, humiliation, and injury to feelings in accordance with s 123(1)(c)(i) of the Employment Relations Act 2000 (the Act).
- b. 18 months' lost wages in accordance with s 123(1)(b) of the Act.
- c. Payment of a March 2024 quarterly bonus pursuant to s 123(1)(c)(ii) of the Act.
- d. Costs.

The Authority's investigation

[5] For the Authority's investigation written witness statements were lodged from Ms Cooper, and Ms Susan Monds in support. For the respondent, witness statements were lodged from Mr Micheal Fraser-Jones, Ms Pauline McLaren, and Mr Neville Jacques. All witnesses answered questions under oath or affirmation from me and the parties' representatives, except for Mr Jacques, whose statement was taken as read by consent. The representatives also gave 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.

Background

[7] Ms Cooper was employed as the Marketing Manager to Mike Fraser-Jones, and assisted him in all the administrative aspects of his real estate business. At the time of her dismissal, she had been employed by him for 21 years. Ms Cooper was a valued employee, and received an annual salary of \$125,000, plus a quarterly bonus. Her bonus payment was 20% of the bonus amount awarded to Mr Fraser-Jones each quarter.

[8] In the first half of 2023, Mr Fraser-Jones invited Mr Jacques and Ms Stacci Proffitt to join the business. Mr Jacques was a real estate agent, and Ms Proffitt was his assistant, although she also had a real estate agent's licence. The evidence was that Mr Jacques became a 40% shareholder in Mr Fraser-Jones' business, although the details of this were not discussed with Ms Cooper.

[9] Ms Cooper understood that Mr Fraser-Jones was hoping to retire in a couple of years. This was not discussed in any further detail. No discussion was had about how Mr Jaques and Ms Proffitt joining the team would impact Ms Cooper or change her role, or how Mr Fraser-Jones' retirement might impact her role.

[10] Ms Cooper took planned leave in October 2023 to travel overseas. On her return, Mr Fraser-Jones contacted her, and told her to take another week off, not to contact anyone or do any work, and think about her attitude. He did not explain what he considered his concerns about her attitude to be.

[11] In November, Ms Cooper had two meetings with Mr Fraser-Jones, Mr Jacques, and Ms Proffitt. She recalls being told that Mr Jacques and Ms Proffitt were scared of her, did not "enjoy" working with her, and that Ms Proffitt in particular was upset that Ms Cooper had some form of oversight or ability to comment on her work. Although two meetings were held, I was not provided with any meeting invites or documentation suggesting that a disciplinary or performance process was occurring.

[12] During this time, Ms Cooper continued to work as usual, including working with Mr Jacques and Ms Proffitt, including attendance at weekly team meetings.

[13] On 19 December 2023, Mr Fraser-Jones arranged to meet Ms Cooper in Morrinsville at a convenient location they had used for business meetings in the past. Ms Cooper was expecting a business meeting and came prepared with her usual work updates.

[14] Mr Fraser-Jones told her that a decision had been made to restructure the business, he did not need two PA's on the team, and that Ms Proffitt could handle the work and Ms Cooper's services were no longer required. He told her that she was redundant, she would be paid up to the end of January 2024, but that she was to cease work immediately. Mr Fraser-Jones said to Ms Cooper she could say what she wanted but the decision had already been made.

[15] Mr Fraser-Jones told Ms Cooper that she would need to contact Ms McLaren to find out what SRL needed to complete her exit. Ms Cooper replied that, as he had just sacked her, she felt he should be the one to do that. The meeting then ended, and Ms Cooper left for home.

[16] Ms Cooper then made attempts to change her phone to a personal plan, but was hindered by the fact that SRL had immediately revoked her email access. The general manager then intervened to give her email access for a short time so she could make this and similar arrangements for her exit over the following day.

[17] Mr Fraser-Jones was somewhat critical of how long it took to recover the home office items at Ms Cooper's house, including her work laptop, a photocopier, binding machine, stationary, and branded merchandise. Ms Cooper said that she had had a phone conversation with Mr Fraser-Jones the following day, that is 20 December, and told him that these items would need to be picked up from her house. He had agreed to visit her on 21 December, but had not done so and did not contact her again. In the absence of communication, this did not occur until February.

[18] Ms Cooper said that her dismissal left her blindsided and gobsmacked. She did not then and does not now understand why her employment ended. She was particularly puzzled by the reference to restructuring, as Mr Fraser-Jones had not stopped working at SRL, and was not retired. The team also hired a new administrative assistant in the first quarter of 2024, who continues to work there.

[19] Ms Cooper described the impact of the dismissal on her, saying that she had trouble with eating and sleeping, it had aggravated an existing heart problem, she suffered from raised blood pressure and continued to require blood pressure medication, and had accessed counselling on the advice and with the assistance of her GP.

[20] Ms Monds, who had known Ms Cooper for 40 years, gave evidence of the impact the dismissal had on Ms Cooper. She said that the effect had been profound and on-going, affecting Ms Cooper's mental and physical health. Ms Monds said that she and other friends were very worried for Ms Cooper, to the extent that they arranged to keep an informal watch on her, with one of them contacting her daily to make sure Ms Cooper was alright. Ms Monds' evidence was that the dismissal devastated Ms Cooper and changed her as a person.

[21] Mr Fraser-Jones gave evidence about how and why Ms Cooper was dismissed. His written evidence was that Ms Cooper was dismissed for redundancy. It was accepted by SRL that in all the circumstances, this amounted to an unjustified dismissal.

[22] Mr Fraser-Jones' in person evidence was not on all fours with his written evidence. Mr Fraser-Jones explained that once Mr Jacques and Ms Proffitt came on board, it was obvious to him that Mr Jacques would want to continue working with Ms Proffitt, and that as Mr Fraser-Jones intended to eventually sell the business to Mr Jacques, this was important.

[23] Mr Fraser-Jones said that he and Mr Jacques had multiple discussions about how the business would be restructured, although there was no suggestion that Ms Cooper was involved in or informed of these discussions in any way. Mr Fraser-Jones then said that when Ms Cooper went on leave, it became clear that Ms Proffitt could do all the administration work. Mr Fraser-Jones also pointed out that Ms Proffitt was on a salary of \$80,000 with no entitlement to a bonus.

[24] In addition to all this, Mr Fraser-Jones said in his in-person evidence that he was not happy with Ms Cooper's performance at work. He pointed to two issues in particular, one being his feeling that Ms Cooper was not sufficiently using SRL's internal systems, including computer systems. He contrasted this with what he said was Ms Proffitt's superior technology skills. Mr Fraser-Jones also said that there was conflict between Ms Proffitt and Ms Cooper as to who had responsibility for administration work, and that Ms Cooper had made nasty phone calls to him about this.

[25] I note that there was no suggestion that Mr Fraser-Jones had ever taken any steps to regularise the working relationship between Ms Cooper and Ms Proffitt, or to define their respective roles and duties. What became clear at the investigation meeting was that Mr Fraser-Jones accepted and prioritised Mr Jacques' apparent negative view of Ms Cooper. Mr Fraser-Jones also took into account that Ms Proffitt was available to do the same work more cheaply.

[26] Although Mr Fraser-Jones said he raised with Ms Cooper verbally concerns he had about her working relationship (or lack thereof) with Ms Proffitt and told Ms Cooper that if she didn't take steps to fix it, she would lose her job, there are no records of such conversations and Ms Cooper does not recall them occurring. It is accepted that Ms Cooper was summarily dismissed on 19 December 2023, by way of verbal advice from Mr Fraser-Jones. There are no supporting documents, meeting invites, or other recorded discussions, leading up to Ms Cooper's dismissal.

[27] In these circumstances, SRL's concession that Ms Cooper's dismissal was unjustified is well-made. I find that Ms Cooper has a personal grievance for unjustified dismissal and is entitled to remedies accordingly.

Remedies

[28] Ms Cooper gave evidence of the impact that dismissal had on her. I have summarised this above. She described her confusion at being told by Mr Fraser-Jones that she was redundant, in circumstances where his business was not winding down, and how her confusion on this point only intensified when he continued to remain active in the local real estate market, in advertising, and by hiring a second young woman to assist in his business. She said she found this difficult including because she was unable to explain to friends, family, clients, and people she knew in the local community why she was no longer working for Mr Fraser-Jones, in the face of his continuing public business profile and on-going promotional activity.

[29] I accept that her dismissal had a profound and on-going impact on Ms Cooper's physical and mental health. I find that Mr Fraser-Jones' actions in dismissing Ms Cooper were callous and self-serving. In short, he had restructured his business by inviting Mr Jacques to become his business partner. Mr Jacques had brought his own support person with him, and he and Mr Fraser-Jones decided that it would be best for

them both financially if she became Ms Cooper's replacement. Mr Fraser-Jones frankly admitted that this other person replacing Ms Cooper was cheaper to employ and he took this into account.

[30] None of this was discussed with Ms Cooper at any point in advance, with Mr Fraser-Jones freely admitting that he and Mr Jacques made decisions together about the running of the business without involving others in any way, and consistent with Mr Fraser-Jones' statement to Ms Cooper when he dismissed her that she "could say anything she wanted, but the decision had already been made".

[31] Telling a distressed employee that no matter what they may say, their input will be ignored can only be described as dismissive and degrading. This is exacerbated because Ms Cooper was not told that the meeting she had been asked to attend was to discuss her employment status, so she had no opportunity of any sort to prepare herself for such an outcome or to have support available. It was also a public meeting in a local café where she and Mr Fraser-Jones routinely discussed general business meaning that despite the circumstances, Ms Cooper had to maintain decorum as best she could.

[32] For all these reasons, it is submitted for Ms Cooper that an appropriate award would be \$75,000. SRL resists this. It says that an award of \$17,000 would be appropriate.

[33] The court has found, in similar circumstances where the employee was described as having "experienced a deep sense of hurt that she had not been listened to and that her concerns had been unceremoniously brushed to one side" that a compensatory award of \$20,000 under s 123(1)(c)(i) was appropriate¹. Similarly, the court found in a later case that the employee "felt side-lined and unheard, was subject to a process that they did not feel part of (rather, felt excluded from) and was not properly engaged with or listened to....The extent of harm suffered was exacerbated by the communications strategy adopted by [the employer]"². The compensatory sum of \$25,000 was awarded. The court awarded the sum of \$31,000 in a matter where the employee "had not been listened to or explanations given the sort of consideration that would be expected of a fair and reasonable employer acting in good faith" and against a background of 15 years of trouble-free service³.

¹ *Waikato District Health Board v Archibald*, [2017] ERNZ 791 at [58] and [66].

² *GF v Comptroller of the New Zealand Customs Service*, [2023] ERNZ 409 at [154].

³ *Pact Group v Robinson*, [2023] ERNZ 682, at [45] and [52].

[34] Taking into account the court's comments in these matters, I am satisfied that an appropriate award of compensation is \$35,000. Orders are made accordingly.

Should lost wages be awarded?

[35] Ms Cooper submits that she should be awarded the equivalent of 18 months lost wages. SRL submits that any award of lost wages should be limited to the additional time it would have taken to carry out a fair redundancy process, being a total of two weeks.

[36] Ms Cooper was paid up to 31 January 2024. Her evidence was that she applied for several roles, and used the services of a recruiter, before securing new employment on 19 March 2024, albeit at the rate of \$60,000 per annum.

[37] I am not drawn to the submissions from SRL that this was a redundancy situation and therefore Ms Cooper should only be awarded a nominal amount of two weeks wages. Mr Fraser-Jones's evidence that he was looking towards retirement and was winding down his business is undermined by the continuing evidence that he remains active and prominent in the local real estate market, and that he and Mr Jacques hired another administrative assistant after Ms Cooper's departure. Mr Fraser-Jones' evidence was that he preferred to retain Mr Jacques' assistant because she was better at using certain technology, she was paid considerably less than Ms Cooper, and because Mr Jacques preferred her and did not prefer Ms Cooper. I am not drawn to the submission by SRL that these factors created a genuine redundancy situation that would necessarily have resolved within two weeks. No process was carried out that would suggest a redundancy situation had arisen. Importantly, Mr Fraser-Jones had full control over Ms Cooper's remuneration package, as well as setting her duties, KPI's, and any required training, and had not raised any concerns about these matters with Ms Cooper throughout her 21-year tenure. The evidence overall does not support the submission that redundancy was inevitable rather than any other possible outcomes.

[38] Overall, I conclude that Ms Cooper should be entitled to the equivalent of 3 months ordinary time remuneration, as provided for in s 128(2) of the Act. This amounts to an award of ordinary time remuneration between 1 February 2024 and 18 March 2024; and from 19 March 2024 to 1 May 2024, reimbursement at the rate of the

difference between the lower salary earned and her salary at SRL, which amounted to a difference of \$65,000 gross on an annual basis.

[39] Ms Cooper's annual salary with SRL was \$125,000 gross. This amounts to a weekly rate of \$2,403.85 ($\$125,000/52$) and a daily rate of \$342.47 ($\$125,000/365$).

[40] The time between 1 February and 18 March amounts to 6 weeks and 3 days, or \$14,422.98 (being $\$2,403.85 \times 6$ weeks) plus \$1,027.41 ($\342.47×3 days). The total sum amounts to \$15,450.39 gross.

[41] The time between 19 March and 1 May amounts to 6 weeks and 4 days. During this time, Ms Cooper is entitled to an award to make up the difference between her salary at SRL and what she did earn. The relevant weekly rate for this period is therefore \$1,250.00 gross (being $\$65,000/52$) and the daily rate is \$178.08 (being $\$65,000/365$). The sum is calculated as follows: \$7,500.00 (being $\$1,250.00 \times 6$ weeks) plus \$748.32 (being $\$187.08 \times 4$ days). The total sum amounts to \$8,248.32 gross.

[42] In total, this amounts to an award of \$23,698.71 gross (being \$15,450.39 plus \$8,248.32). Orders are made accordingly.

[43] Ms Cooper also seeks orders awarding payment of her quarterly bonus, which was due at the end of March 2024. It is accepted that this was a contractual term, rather than a discretionary bonus. Ms Cooper submits that but for her unjustified dismissal she would have received this bonus, and SRL has failed to establish that intervening events would have prevented her from remaining employed up to the end of March 2024 and becoming entitled to this payment.

[44] It is submitted for SRL that it cannot safely be assumed that Ms Cooper would have remained employed as at the end of March 2024, and that had a lawful restructure process commenced on 19 December 2023, it is inherently unlikely that the process would not have been concluded prior to 31 March 2024.

[45] Section 128 of the Act states that where the Authority has determined that an employee has a personal grievance, and has lost remuneration as a result of that personal grievance, order the employer to pay to the employee the lesser of a sum equal to that lost remuneration or three month's ordinary time remuneration. Similarly, s 123(1)(b)

provides for the reimbursement to the employee of 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.

[46] In the present case, Ms Cooper has a personal grievance claim for unjustified dismissal, and the quarterly bonus payment was a contractual entitlement to the payment of wages or other money. But for her unjustified dismissal, she would have received this bonus. SRL's argument that it would have completed a proper, fair, and substantively justified redundancy process and dismissed Ms Cooper by 31 March 2024 is speculative. I find that Ms Cooper's claim for the 31 March 2024 quarterly bonus payment is made out. Orders are made accordingly for its payment to her. If there are difficulties with the calculation of this sum, the parties may revert to the Authority for further direction.

Orders

[47] Ms Glenice Cooper has a personal grievance in that she was unjustifiably dismissed.

[48] Success Realty Limited is ordered to pay to Ms Glenice Cooper within 28 days of the date of this determination:

- a. An award of ordinary time remuneration of \$23,698.71 gross;
- b. An award equal to the amount of the 31 March 2024 quarterly contractual bonus; and
- c. The sum of \$35,000 without deduction as compensation for hurt and humiliation;

Costs

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

[50] If the parties are unable to resolve costs, and an Authority determination on costs is needed, the applicant 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 the respondent will then have 14 days to lodge any reply memorandum. On request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted.

[51] The parties can anticipate the Authority will determine costs, if asked to do so, on its usual “daily tariff” basis unless circumstances or factors, require an adjustment upwards or downwards.⁴

Claire English
Member of the Employment Relations Authority

⁴ For further information about the factors considered in assessing costs see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1