

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2025] NZERA 639  
3376263

BETWEEN                      JEANETTE GO  
   Applicant  
  
AND                              DAYLE ITM LIMITED  
   Respondent

Member of Authority:      Eleanor Robinson  
  
Representatives:            David Luttig, advocate for the Applicant  
   Danny Gelb, advocate for the Respondent  
  
Investigation Meeting:      On the Papers  
  
Submissions and/or further    5 September 2025 from the Applicant  
evidence                        19 September 2025 from the Respondent  
  
Determination:                13 October 2025

---

**PRELIMINARY DETERMINATION OF THE AUTHORITY**

---

**Employment Relationship Problem**

[1]      The Applicant, Jeanette Go, claims that she was unjustifiably dismissed and unjustifiably disadvantaged following a restructuring process undertaken by the Respondent, Dayle ITM Limited (Dayle ITM), in which she claims her position was unfairly selected for redundancy.

[2]      Dayle ITM denies it was the employer of Ms Go at the time her employment was terminated, or that it ever employed Ms Go. It claims that Ms Go was employed by Tamaki Building Supplies Limited which experienced a restructure and assigned its rights and obligations to Point Limited.

[3]      This determination addresses the issue of the correct identity of Ms Go's employer at the date her employment ended.

### **The Authority's investigation**

[4] The Authority has determined this matter on the papers by agreement with the parties, that is based upon the application and the submission therein received from the representative on behalf of Ms Go, and the submission from the representative on behalf of Dayle ITM.

[5] Whilst I have not referred to all the submissions made by the parties in this determination, I have fully considered them.

### **Issues**

[6] The issue requiring investigation is the correct identity of the employer of Ms Go at the date her employment was terminated by reason of redundancy.

### **Brief Background**

[7] In 2019 Ms Go became employed by Tamaki Building Supplies Limited pursuant to an individual employment agreement which was signed by the parties and dated 1 March 2019 (the Employment Agreement).

[8] The Employment Agreement contained the following relevant clauses:

1.1 This agreement shall come into effect on 21/03/2019, or other mutually agreed date, and shall remain in force until renegotiated or terminated pursuant to any provision of this agreement.

40.1 This agreement may only be amended or varied by written consent signed by both parties.

[9] During 2019 Tamaki Building Supplies Limited was acquired by Martin and Deborah Day who became directors and shareholders. It was removed from the Companies Office Register in December 2024.

[10] Martin and Deborah were also directors of two other companies: Dayle Timber Limited and Point Limited.

[11] In the Respondent submissions it states that the entity Tamaki Building Supplies Limited was owned by four legal owners. In June 2019 two of the shareholders purchased the shares of the other two shareholders and then restructured the four existing entities into two entities operating entities: Dayle Timber Limited and Point Limited.

[12] Following a restructure in February 2022, the employees were divided between Dayle Timber Limited and Point Limited with a view to reducing ACC premium contributions.

[13] On 22 February 2022 Ms Day wrote by email to Ms Go. Ms Day's email address was [Deborah.day@dayleitm.co.nz](mailto:Deborah.day@dayleitm.co.nz). The email was headed 'Sale of Tamaki Building Supplies Ltd to Dayle Timber Ltd.' The letter stated:

Hi Jeanette

Nothing to worry about. We are moving forward with the process of "one company three locations" and tidying up our paper trails.

Usually, I would do this in a face to face setting, but with the current covid situation we felt this was more appropriate and we are trying to keep things as simple. Please see attached letter regarding the migration of our Tamaki Building Supplies Ltd employees to the Dayle Timber model.

Action: Once you have read this, [...] will have a form for you to sign acknowledging the change, which will then be placed on your personnel file. ..

[14] Attached to the email was a letter dated 22 February 2022 also on Dayle ITM letterhead with logo and the company name: Dayle Timber Limited, which stated:

Next steps in Business Sale and Restructuring

As you know, we have slowly been moving toward one brand, one business since our full purchase of Tamaki Building Supplies. Last year, we moved to one computer system, all running under Dayle ITM. Our next step in the process is the friendly sale of Tamaki Building Supplies Ltd and Kopu Road Manufacturing businesses to Dayle Timber and realigning staff to our sister company, Point Ltd.

So, how does this affect you? In reality, nothing changes. You will still continue to be employed under the same contract and conditions you have enjoyed with Tamaki Building Supplies Ltd, but you will now be employed by Point Ltd. The [...] team will transfer all leave and entitlements to the new entity.

Should you have any queries or concerns, please do not hesitate to contact me. Otherwise, these changes will take effect over the next two weeks.

[15] Ms Go was provided with payslips after that date which were headed "Point Limited".

[16] On 3 October 2024 Ms Go received an email addressed to all the estimators in its employment entitled: 'Potential Restructure of Estimating Department'. Attached to it was a document headed: 'Dayle ITM – Review due to decreasing plans for estimation.'

[17] A letter dated 11 October 2024 was on Dayle ITM letterhead and subsequent letters in the restructuring process, including the termination letter, were on Dayle ITM letterhead.

[18] Following the termination of employment a certificate of service dated On 21 October 2024 was provided on behalf of Ms Go. It was on the letterhead Dayle ITM with logo and the company name: Dayle Timber Limited and signed by the General Manager Operations with an email address [name] @dayleitm.co.nz. It stated:

To whom it may concern

RE: Jeanette Go – Record of Employment

Jeanette go was employed by Dayle ITM in the role of Estimator.

Jeanette was employed from March 2019 until her role ended, due to Redundancy, in October 2024. ...

**Which company employed Ms Go at the date of the termination?**

[19] The Employment Agreement stated that Ms Go's employer was Tamiki Building Supplies Limited, and its provisions included that it could not be amended or varied except by written consent signed by both parties. Ms Go did not provide written consent to any amendment or variation of it.

[20] In the letter sent by Ms Day on 22 February 2022, Ms Go was informed that Tamaki Building Supplies Ltd. was migrating to the Dayle Timber model. In the attached letter it was explained to Ms Go that:

- a) there would be one computer system running under Dayle ITM;
- b) Tamaki Building Supplies Ltd was being sold to Dayle Timber;
- c) staff would be 'realigned to our sister company Point Ltd';
- d) it would have no effect on her;
- e) she would have the same terms and conditions; and
- f) she would now be employed by Point Ltd.

[21] No new or revised Employment Agreement was provided to Ms Go either on 22 February 2022 or prior to the termination of her employment.

[22] The payslips provided to Ms Go from that date had been processed by Point Ltd. While payslips and pay are usually processed by the employing company, it is sometimes the case that an associated or 'sister' company may provide the administration of the payroll. Accordingly I do not find the payee company to be determinative of the issue.

[23] It is submitted for the Respondent that Ms Go had not received payment or employment documentation from Dayle Timber Limited.

[24] I observe that all communications to Ms Go, whether by email or on a letterhead, were identified as being sent by Dayle ITM. In addition the email sent on 22 February 2022 was headed 'Sale of Tamaki Building Supplies Ltd to Dayle Timber Ltd'; and the letters dated 11

and 17 October 2024 in regard to the restructuring process were on Dayle Timber Limited letterhead.

[25] Significantly the letter dated 21 October 2024 which served as a certificate of service following the termination of employment was on Dayle Timber Limited letterhead with a Dayle ITM logo and stated that Ms Go's employer was Dayle ITM.

[26] Employers and employees are expected to deal with each other in good faith. This duty encompasses the employer providing an employee with a written employment agreement and thereafter adhering to the terms of that agreement.

[27] Ms Go had been provided with an Employment Agreement which was not replaced, nor was it varied or amended by written consent signed by both parties at any time during her employment in accordance with clause 40.1 of the Employment Agreement.

[28] As observed the written communications with Ms Go are from a Dayle ITM email address, letters sometimes have Dayle Timber Limited on the letterhead and the letter providing the Certificate of Service identifies Ms Go's employer as Dayle ITM.

[29] Given the manner of the written communications and the failure to provide any amended or revised employment agreement, I find it unsurprising that Ms Go would be confused as to the actual identity of her employer.

[30] However I do observe that the letter dated 22 February 2022 invited Ms Go to contact Ms Day if she had any queries or concerns, but she did not avail herself of that opportunity.

[31] Having given the matter full consideration, whilst there is some basis for holding Dayle Timber Limited as the employer of Ms Go, there is also a basis for the employer being Point Limited.

[32] I determine that Point Limited is the correct identity of the employer at the time Ms Go was employed.

### **Next Steps**

[33] Ms Go is to lodge an amended Statement of Problem identifying Point Limited as the employer.

[34] In the event that there is any submission that Ms Go is outside the 90 day time limit for raising such a claim, I observe that the Respondent contributed to a large degree in any

confusion as to the correct identity of her employer on the part of Ms Go by its failure to provide her with a revised employment agreement and the confusing nature of its communications.

[35] In those circumstances a submission to grant leave based on exceptional circumstances would be considered by the Authority.

### **Costs**

[36] Costs are reserved for determination following the substantive investigation meeting and its outcome or until this matter otherwise ceases to be before the Authority

Eleanor Robinson  
Member of the Employment Relations Authority