

Background Facts and Evidence

[3] It is commonly accepted that Ms Griffin and Ms Morley have known each other since mid- 2001, that they were friends and had a common interest in breeding and showing pedigree dogs. Ms Morley owns and is the sole director of a business, Petworkz Online Limited, which breeds, sells and generally cares for pedigree dogs.

[4] In the later months of 2005, Ms Morley became aware that Ms Griffin was experiencing a number of financial and personal difficulties in her life which were also affecting Ms Griffin's teenage son. Ms Morley says that she loaned Ms Griffin the sum of \$1,500 to assist. Ms Morley was so concerned about Ms Griffin's personal circumstances she made an offer to Ms Griffin to move from Foxton to Ms Morley's home in Hamilton, the idea being that there would be better employment opportunities for Ms Griffin, better schooling for the son and by staying with Ms Morley for a period, Ms Griffin would be able to restore some stability to her life.

[5] Ms Griffin accepted Ms Morley's generous offer and in early January 2007, Ms Griffin and her teenage son, along with 7 German Shepherd dogs and one litter of pups, moved to Ms Morley's home and business premises in Hamilton. The arrangement was that Ms Griffin and her son would be accommodated and kept and in return, Ms Griffin would give some assistance with the business in addition to taking care of her own dogs.

[6] Ms Morley says that she paid a number of debts for Ms Griffin including vet fees, a speeding fine and two other debts incurred by Ms Griffin which a debt collection agency was pursuing.

[7] By the end of April 2007, Ms Morley had a requirement for an additional staff member in her business. As Ms Griffin owed her over \$3,000 for bills Ms Morley had paid, Ms Morley offered Ms Griffin a part time job which would create an income for Ms Griffin to pay back Ms Morley and help Ms Griffin get "back on her feet."

[8] Ms Griffin accepted the job offer. She was to work 22 hours a week and be paid \$16.00 an hour. Ms Griffin commenced her employment on 15th May 2007.

[9] The evidence of Ms Morley is that in late May 2006, a kennel maid in the employment of Ms Morley resigned citing that she could no longer work with Ms Griffin due to the way that Ms Griffin treated her, including verbal abuse. Ms Morley spoke to Ms Griffin about this and expressed her concerns that the business could face a claim from an employee because of Ms Griffin's actions. Ms Morley says that Ms Griffin understood this.

[10] The evidence is that Ms Griffin worked some increased hours and in return received payment in the form of dog food and medicines to the value of approximately \$4,000. Ms Morley says that Ms Griffin had the use of a vehicle and also operated her own business from the premises.

[11] In August 2006, Ms Griffin experienced some health issues relating to a sore leg (a damaged Achilles tendon) and an injury to her head. Ms Morley says that she had to persuade Ms Griffin to obtain medical treatment.

[12] On the 4th of February 2007, Ms Griffin and Ms Morley attended a dog show in Palmerston North where Ms Griffin received an accidental kick to her foot and was in some pain. The pain continued the next day (Monday 5th February) on the journey back to Hamilton, the outcome being, that Ms Griffin attended an accident and emergency clinic where a broken bone in her foot was diagnosed and a removable plaster cast was applied.

[13] In regard to what occurred in the next few days there is some overall conflict in the evidence, particularly as it relates to the departure of Ms Griffin from her employment.

The evidence of Ms Griffin

[14] Ms Griffin says that on Tuesday 6th February 2007, she was admitted to Waikato Hospital in "great pain" having developed a blood clot in her leg. Ms Griffin related being taken from Ms Morley's home in an ambulance. The further evidence of Ms Griffin is that on the following day (Wednesday 7th February) she contacted Ms Morley and asked to be collected from the hospital. Ms Griffin says that Ms Morley refused and hence she was required to remain in hospital for a further night. Ms

Griffin says in her brief of evidence (para 5(vii), that she contacted a friend on Thursday 8th of February who subsequently returned her to Ms Morley's premises. Ms Griffin's oral evidence was that the nurses at the hospital arranged for someone to return her.

[15] In her brief of evidence (para 5 (viii), Ms Griffin says that: "On my arrival, Ms Morley told me that I could no longer remain at the kennels and that I should move to a motel. She told me to pack my possessions and leave." In her statement of problem (para 2(c)(vii), Ms Griffin says: "On my arrival, Ms Morley told me that I could no longer remain at the kennels and that I should move to a motel."

[16] The oral evidence of Ms Griffin is that shortly after her return to Ms Morley's, a discussion took place in an upstairs room and Ms Morley said that she [Ms Griffin]: "was having a mental breakdown – that she should go to a motel – that she should get out and don't come back." The further evidence of Ms Griffin is that she was "floored." She then went on to allude to Ms Morley stealing her son. Ms Griffin said that she was "taken aback" and then asked Ms Morley if she could call a friend in Auckland which she duly did. The final outcome was that Ms Griffin's friends arrived from Auckland that evening and took Ms Griffin, her dogs and most of her possessions back to Auckland. Ms Griffin never returned to work for Ms Morley.

[17] Ms Griffin told the Authority that she believed that she had been; "doing a good job" and that she was dismissed without good reason.

The evidence of Ms Morley

[18] Ms Morley says that that Ms Griffin was on the premises all day on Tuesday 6th February. The evidence of Ms Morley is that on this morning, she and another employee were making arrangements for the dogs to go for their "outside runs." Ms Morley says that Ms Griffin appeared at the kennels and "started to rant and rave that we were doing it all wrong." The further evidence of Ms Morley is that: "Ms Griffin threatened me that if anything happened to her dogs that she would be leaving." Ms Morley says that she advised Ms Griffin not to talk to her in such tone, that she needed to consider her attitude and that she was sick and should go back to bed.

[19] Ms Morley's evidence is that around lunchtime on 6th February, she found that Ms Griffin's son seemed upset and upon being questioned by Ms Morley as to what was wrong he told Ms Morley that they were leaving. He went on further to say that that his mother had told him to start packing as they were leaving on Friday. Ms Morley says that the son told her he did not want to leave.

[20] The evidence of Ms Morley is that on Wednesday 7th February, Ms Griffin stayed in her room for most of the morning but at one point came out to ask another employee, Sandra Rostron, to return a book which Ms Griffin had loaned to her, by Friday. Ms Morley says that this action on the part of Ms Griffin confirmed the advice from Ms Griffin's son that Ms Griffin intended leaving this week.

[21] Ms Morley says that in the afternoon, concerned employees notified her that Ms Griffin has been vomiting. Ms Morley found Ms Griffin in pain and incoherent. She called an ambulance and Ms Griffin was admitted to Waikato hospital at approximately 3:00p.m. Ms Morley went to the hospital at approximately 6:00p.m. with some toiletries for Ms Griffin but she could not be found. A nurse informed Ms Morley that Ms Griffin had been discharged but didn't know where she was. Ms Griffin was subsequently found in a cubicle unable to walk, unable to hold a conversation and just grunted in response to questions from the nurse and Ms Morley.

[22] Ms Morley says that she remonstrated with the nurse as it was clear to her that Ms Griffin was not in a fit state to leave the hospital and that she did not have the facilities to take Ms Griffin home, neither could she manage to move Ms Griffin as it had taken three people to take her out of Ms Morley's house to the ambulance. Ms Morley says that the nurse told her it was not the hospital's responsibility to make arrangements for Ms Griffin and that if she could not go to Ms Morley's house she should go to a motel. The eventual outcome was that Ms Griffin remained in hospital on the evening of 7th February.

[23] Ms Morley says that on the afternoon of the next day (Thursday 8th February) she was contacted by Ms Griffin who said she was being discharged from hospital. Ms Morley said she advised Ms Griffin that her son had indicated that they were leaving and that he did not want to go. Ms Morley informed Ms Griffin that she had consulted a lawyer on the son's behalf. As Ms Morley had a commitment to one of

her dogs having pups, she asked Ms Griffin to arrange for a taxi to bring her home and Ms Morley would pay for it.

[24] The evidence of Ms Morley is that Ms Griffin arrived back from the hospital around 5:00p.m. and having seen Ms Morley, she ignored her and went upstairs to her living quarters. Ms Morley went upstairs about 20 minutes later and indicated to Ms Griffin that they needed to talk. Ms Morley says that she explained to Ms Griffin that she had been told by Ms Griffin's son that they would be leaving and that he did not want to go with her. The evidence of Ms Morley is that Ms Griffin replied that she had called the Family Law Centre that afternoon and had also called Cambridge High School and removed her son from the school. Ms Morley told Ms Griffin that her son has rights and that an application would be made to the Court for a lawyer to be appointed. Ms Morley says that Ms Griffin was volatile and argumentative for most of the discussion.

[25] Ms Morley says that at the conclusion of the discussion about the rights of Ms Griffin's son, Ms Griffin went quiet and then asked if Ms Morley wanted her to leave. Ms Morley said this was a decision for Ms Griffin. Upon being questioned by Mr Chambers, Ms Morley acknowledged that she also said; that if Ms Griffin stayed, she needed to improve her behaviour and stop looking for the negative in everyone and every situation.

[26] Ms Morley says that Ms Griffen then used the phone and called her friend (Lyn) to come from Auckland to pick her up and this duly occurred.

The Question to be Determined

[27] The primary question for the Authority is: Was Ms Griffin dismissed?

Analysis

[28] Looking at the totality of the evidence, while there is some difference in the evidence of Ms Griffin and Ms Morley in relation to the timing of Ms Griffin's visit to the hospital and certain other related events, Ms Griffin did acknowledge that due to the way she was feeling at the time, she may have got her dates wrong as to what

happened and when. However, she is adamant about her version of the other events leading to her departure and told the Authority that Ms Morley's version of events is a "construction."

[29] A rational person might ask, as Mr Chambers did of Ms Morley; why would Ms Griffin leave her job and the accommodation that had been provided for her and her son? Ms Morley's response was that she didn't know what Ms Griffin was thinking at the time. It is equally difficult for the Authority to rationalise Ms Griffin's behaviour but I found the evidence of Ms Morley to be the more probable version of events. The substantive evidence points towards Ms Griffin making a conscious decision to leave Hamilton and the employment of Ms Morley.

[30] I feel bound to make the observation that the relationship between Ms Griffin and Ms Morley was more than simply an employment relationship that went wrong then subsequently coming before the Authority, as many others do. Ms Griffin and Ms Morley once had a friendship which was of such substance that when Ms Griffin was in dire straits, Ms Morley took Ms Griffin and her son into her home and then gave Ms Griffin employment, albeit there was some mutual benefit. There was also some historical and family law related background to the evidence the Authority heard but this is not within the Authority's jurisdiction. One cannot help but form the view that Ms Griffin's emotional and physical health was such that at the material times she was not thinking or acting rationally. But none of the fault for this can be fairly laid at the door of Ms Morley and it is most probably to her chagrin that despite her best efforts, Ms Griffin chose the path that she did.

Determination

[31] I find that Ms Griffin was not dismissed and that she left the employment of Ms Morley of her own free will on the evening of 8th February 2007. It follows that I find that Ms Griffin does not have a personal grievance and the remedies she seeks cannot be granted.

Costs

[32] The issue of costs is reserved. Should the respondent wish to seek an order for costs, submissions must be forwarded to the Authority and the applicant, within 28

days of the date of this determination. Given such, the applicant has 14 additional days to file a submission with the Authority.

K J Anderson
Member of the Employment Relations Authority