

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
OFFICE**

BETWEEN Vickie Lawson (Applicant)
AND Wentworth College Board of Trustees (Respondent)
REPRESENTATIVES Vickie Lawson in person
Stephen Fleming for Respondent
MEMBER OF AUTHORITY Vicki Campbell
INVESTIGATION MEETING 1 September 2006
DATE OF DETERMINATION 1 September 2006

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Ms Vickie Lawson was employed by Wentworth College Board of Trustees ("Wentworth") in January 2003. On 11 October 2005 Ms Lawson tendered her resignation with a stated finishing date of 5 February 2006.

[2] No confirmation of either the acceptance of the resignation nor the agreed finish date was provided by the respondent.

[3] At the end of the school year Ms Lawson and other teachers who were leaving the school were advised that they would no longer be required.

[4] Ms Lawson started a new job on 31 January 2006. She was paid up to and including 25 January 2006 and seeks a further one weeks wages from 26 January 2006 to 30 January 2006.

[5] Wentworth is an independent private college. Teachers employed by Wentworth are required to commence work at the school one week before the students. This means that teachers at Wentworth commence their working year one week before state funded schools.

[6] Mr Fleming told the Authority that where teachers leave Wentworth at the end of one year to take up alternative employment Wentworth only pay that teacher's salary up until the time the replacement teacher commences for the new school year.

[7] For this reason, when Ms Lawson's replacement commenced employment with the School for the 2006 year, on 26 January, Wentworth discontinued payment of Ms Lawson's salary. Ms Lawson commenced her new teaching position on 31 January 2006.

[8] It was common ground at the investigation meeting that the employment agreement applicable to Ms Lawson does not touch on when pay will cease for teachers giving notice and leaving at the end of a school year.

Determination

[9] There is no dispute that Ms Lawson gave proper notice of her intention to leave her employment. The resignation letter clearly identifies 5 February 2006 as being the date on which employment was to cease. Ms Lawson accepts that as she commenced her new employment before that date, she can not expect to be paid until 5 February.

[10] Mr Fleming told the Authority that the acceptance of Ms Lawson's resignation did not mean acceptance of the date to which Ms Lawson would be paid. He says there was never any agreement as to the date Ms Lawson would end her employment.

[11] I find that Wentworth College Board of Trustees accepted Ms Lawson's resignation as it was provided. Wentworth College did not discuss or reach any alternative agreement with Ms Lawson that her employment would end on any day other than 5 February 2006. Ms Lawson was at all times ready and willing to assist with the hand over of duties to the replacement teacher, but was not called upon to do so. Indeed, Ms Lawson was advised that she would not be required to attend the school beyond the last day of the school term in 2005. For that reason I consider Ms Lawson was not required to attend school during the first week of the new school year in 2006, but that this week formed part of her notice period. She is, therefore entitled to receive payment for that week.

Wentworth College Board of Trustees is ordered to pay to Ms Lawson without deduction one weeks wages for the period 26-30 January 2006 inclusive pursuant to section 131 of the Employment Relations Act 2000.

Vicki Campbell
Member of Employment Relations Authority