IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH

[2017] NZERA Christchurch 98
5554893

	BETWEEN	JAMES MICHAEL SEXTON Applicant
	A N D	MANUKA HILL 2003 LIMITED Respondent

Member of Authority:	Helen Doyle
Representatives:	Steven Zindel and Abigail Goodison, Counsel for Applicant Ian Duncan, Advocate for Respondent
Investigation Meeting:	23 March 2017 at Nelson
Submissions Received:	At the investigation meeting
Date of Determination:	19 June 2017

DETERMINATION OF THE AUTHORITY

A **Manuka Hill 2003 Limited is ordered to reimburse James Sexton for four days found to have been incorrectly deducted from his annual leave entitlement, 27 February, 30 May, 16 September and 3 October 2014.**

B **Manuka Hill 2003 Limited deducted money from James Sexton's wages in May 2014 for items he purchased in late 2013 on its account. For reasons set out I am not satisfied that there was written consent. The employment agreement had not I have found been signed at the time of deduction so that was a breach of s 4 of the Wages Protection Act 1983. I am also not satisfied that Manuka Hill 2003 Limited would have agreed to pay for the items.**

In strict accordance with the Wages Protection Act 1983 a way forward would be an exchange of cheques.

C **I have not found that there was an oral agreement to vary the express obligation in the employment agreement James Sexton had to pay for power used whilst living in the farm accommodation except to the extent that it was agreed he would not be liable for the first year's power. The requirement to pay the power account for the second year of employment is not an unjustified action.**

D **There is a deduction clause in the employment agreement that includes specific reference to money owing in respect of power. There was some discussion about the deduction before it was made but James Sexton did not agree to that deduction. There may be an issue as to whether further information about the power invoices need to be provided. As with the items purchased on account an exchange of cheques may be appropriate for strict compliance with the Wages Protection Act 1983.**

E **James Sexton was unjustifiably dismissed from his employment.**

Manuka Hill 2003 Limited is ordered to pay as follows:

(i) **Payment of compensation in the sum of $5000 under s 123 (1)(c)(i) of the Employment Relations Act 2000.**

(ii) **Payment of $1000 being reimbursement of part of the moving costs under s 123(1)(b) of the Employment Relations Act 2000.**

F **Costs are reserved and a timetable set for an exchange of submissions.**

Employment relationship problem

[1] James Michael Sexton commenced working for Manuka Hill 2003 Limited (Manuka Hill) on 1 June 2013 as its day to day farm manager. He was party to an individual employment agreement dated 1 June 2013. There is agreement that the employment agreement is post-dated but there is disagreement about the date the

employment agreement was signed. Mr Sexton was paid an annual salary of $55,000 with accommodation provided valued at $5,200.

[2] The first employment relationship problem, correctly described in final submissions as the principal issue, is that Mr Sexton's dismissal for reason of redundancy is unjustified. The dismissal was advised on 10 March 2015 and was effective from 31 May 2015.

[3] The second employment relationship problem is that Mr Sexton was unjustifiably disadvantaged and the obligations of good faith were not adhered to about payment of power for the farm accommodation Mr Sexton and his family occupied. Mr Sexton maintains that there was an oral variation to the obligation in his employment agreement to pay any electricity charges and that he would not be liable for power costs in the future unless the power to his farm accommodation was changed into his name.

[4] The third employment relationship problem is about the deduction of the sum of $164 from Mr Sexton's wages which he says was in breach of s 4 of the Wages Protection Act 1983.

[5] The fourth employment relationship problem is the withholding of $1,260.80 from Mr Sexton's final pay which he says was in breach of s 4 of the Wages Protection Act.

[6] The final employment relationship problem is about the accuracy of wage and time records kept by Manuka Hill. Mr Sexton claims six days in 2014 were deducted from his annual leave that he says he should have been paid for.

[7] The claim for a penalty for failure to keep accurate records under s 81 of the Holidays Act 2003 and s 132 of the Employment Relations Act 2000 (the Act) in the sum of $1,000 was withdrawn. I do note for further reference that s 76 (1) of the Holidays Act 2003 effective from 1 April 2016, enables a Labour Inspector only to bring an action for recovery of a penalty under s 75 of the Act which includes a penalty for a failure to comply with s 81 of the Holidays Act 2003. The statement of problem in this matter was lodged in July 2016.

[8] Mr Sexton claims reimbursement of all outstanding wages and money, compensation in the sum of $8,000 for the dismissal and $3,000 for the disadvantage together with moving costs in the sum of $2,000. He also claims interest and costs.

[9] The directors of Manuka Hill are Ricky and Megan Inch. Manuka Hill says the redundancy was genuine and there was a fair process with consultation. Manuka Hill says there were a number of discussions with Mr Sexton about power and he was clear about his obligations after the first year of employment in accordance with an express provision in his employment agreement to pay for electricity. Manuka Hill agreed to waive the first 12 months of power on the basis provided that for the second year Mr Sexton paid for his power. It says that the deduction from his final pay for the power was in accordance with the provisions in the employment agreement.

[10] Manuka Hill says that Mr Sexton was paid a fortnightly allowance under his employment agreement for wet weather gear and protective clothing. He was allowed to order supplies on its combined rural trader account to get the benefit of the shareholder discount but had to then reimburse his employer for the purchases made. Mr and Mrs Inch say that whilst Mr Sexton complied with this arrangement on other occasions he did not on this occasion and money was therefore deducted in accordance with the employment agreement.

[11] It does not accept that its record for annual leave is incorrect and does not accept that days Mr Sexton refers to were other than properly deducted as annual leave.

The issues

[12] The issues that the Authority needs to resolve and determine in this matter are as follows:

(a) Is Mr Sexton entitled to payment for six days deducted from his annual leave entitlement on 27, 28 February and 1 March 2014, 30 May 2014, 16 September 2014 and 3 October 2014;

(b) Was the sum of $164 deducted from Mr Sexton's wages in breach of the requirements of the Wages Protection Act 1983;

(c) Was there an unjustifiable disadvantage about the power issues;

(d) Was the deduction for power in breach of the Wages Protection Act 1983;

(e) Was the dismissal for the reason of genuine redundancy and did Manuka Hill follow a fair process in making Mr Sexton redundant. In particular:

(i) Was there adequate consultation;

(ii) Did Mr Sexton know about the proposal for the two new positions after the restructure?

(iii) Was it a requirement of a fair process that he be advised about these roles?

(g) If any of the above matters are answered in favour of Mr Sexton, what remedies is he entitled to and should there be an award of interest?

Is Mr Sexton entitled to payment for the six days in 2014 that he says were deducted from his annual leave entitlements?

[13] Manuka Hill provided information about how it recorded Mr Sexton's annual leave in 2014. Mrs Inch said annual leave was recorded on a calendar. There is also in the bundle of documents a written annual leave update and some handwritten notes that set out dates taken for leave for the material period in 2014.

[14] Mr Sexton has provided his own notes about the days he took and his own calendar pages.

[15] I have worked through the matter as best I can given the passage of time. I want to record for Mr and Mrs Inch's assistance that the records, whilst going some way to comply, do not fully comply with the requirements of s 81 of the Holidays Act 2003. For example they do not provide the amount of payment for any annual leave, sick leave or bereavement leave that has been taken and the dates of and payments for any public holidays that Mr Sexton may have worked. I could not be satisfied the pay advice slips sufficiently indicated annual leave payments.

[16] I am guided therefore by the evidence alongside the other documentary information provided. I accept that Mr Sexton did from time to time request details of his annual leave and did not necessarily query the dates with Mrs Inch that he now

says are at issue. That does not prevent him raising the issue at this time. Mr and Mrs Inch referred to inconsistencies in the evidence and claim of Mr Sexton and the unreliability of his records. I can have regard to that but the requirement for keeping a holiday and leave record in accordance with the Holidays Act is for the employer not the employee.

27 February, 28 February and 1 March 2014

[17] Mr Sexton was rostered off work on 25 and 26 February 2014. Mr Sexton's oral evidence is to the effect that he was unwell on 27 February 2014 and he refers to his wife's handwriting on the calendar that they used which has "sick" written for this day. His second statement of evidence which was inconsistent with his first statement suggested that he milked on that day. I have placed more weight on his oral evidence. On Mr and Mrs Inch's calendar pages for February and March 2014, there is a reference to *"Jamie off"*. The way it is written is different to the next two days that have diagonal shading.

[18] I find on the balance of probabilities Mr Sexton was sick on 27 February 2014 and for that day I find he should be reimbursed for one day's annual leave.

[19] For 28 February and 1 March 2014, the evidence supported that Mr Sexton intended to go to a concert with his wife and accordingly had applied for leave. His evidence is that he worked these days because his wife was unwell so they did not go to the concert. Mr Inch says that in fact he undertook Mr Sexton's tasks on those days.

[20] I think it more likely that Mr Inch undertook the milking as had been arranged earlier with knowledge that Mr Sexton would be on leave on those two days.

[21] There are two provisions in the Holidays Act 2003 that deal with the relationship between annual holidays and sick leave. These are ss. 36 and 38. Section 36 is a provision that provides an employer may allow an employee taking annual holidays to take sick leave. Section 38 is about sickness, injury or bereavement arising before the scheduled annual holiday. Section 38 provides that if an employee has been allowed to take annual holidays and before taking the holidays the employee becomes sick or injured or has a spouse or partner or dependent who becomes sick or injured then the employer must allow the employee to take any period of sickness or injury that they would otherwise take as an annual holiday as sick leave.

[22] I do not find that the circumstances contemplated by s 38 of the Act apply because I am not satisfied that the illness or sickness of Mr Sexton's partner was known of before the annual leave commenced. Under s 36 therefore Mr and Mrs Inch had to agree to Mr Sexton taking the two days as sick days, it seems clear they did not do so.

[23] In conclusion therefore for the reasons set out I could not be satisfied although treated as such by Manuka Hill that 27 February 2014 was an annual leave day for Mr Sexton. It was a day on the balance of probabilities that Mr Sexton did not work because he was unwell and Mr Sexton is entitled to be reimbursed for that day.

[24] I think it less likely that Mr Sexton worked 28 February and 1 March and in the absence of agreement that these days be treated as sick leave they are able to be deducted from his annual leave.

30 May 2014

[25] Mr Sexton's written evidence suggested that he worked 30 May 2014. His oral evidence was to the effect that it was in fact a rostered day off. That evidence is consistent with his handwritten notes in the bundle. I have considered the roster at page 54 of the bundle and Mr Sexton is correct that 30 May is a rostered day off. It was stated in the records of Manuka Hill that 30 May was an annual leave date. These records are found at page 50 and 52 of the bundle. I note that a calendar was not supplied for that month by Mr and Mrs Inch however Mr Sexton's calendar supports rostered days often have an asterix beside them and consistent with that there is an asterix on 30 May.

[26] Mr Sexton is entitled to one day's pay for 30 May 2014 incorrectly deducted from his annual leave entitlement.

16 September 2014

[27] Mr Sexton does not accept that he took 16 September 2014 as annual leave and say that he worked as usual. Mr and Mrs Inch say that Mr and Mrs Sexton's child was born on 11 September 2014 and he had organised to take 11 and 12 September 2014 as annual leave, then had 13, 14 and 15 September 2014 rostered off and during this time he asked if he could have 16 September 2014 off. They say that they recalled this as it was the busy season and the request was somewhat "cheeky" but

agreed to it because of the new baby. This is marked as a day off on the Inch's calendar but on Mr Sexton's calendar the date is not noted as one he took leave for.

[28] There is a concern that Manuka Hill's records may not be accurate. In the circumstances I am minded to prefer the evidence of Mr Sexton about that day. I conclude he is entitled to be reimbursed for that day.

3 October 2014

[29] Mr Sexton also says that 3 October 2014 was a rostered day off and that the roster had changed at or about that time. There was some dispute as to whether the roster changed to Friday, Saturday, Sunday or Saturday, Sunday, Monday during that period which was after calving.

[30] When I look at the three days Mr Sexton was rostered off for the rest of 2014 after calving they show as Friday, Saturday, and Sunday. In those circumstances, I prefer the evidence of Mr Sexton that 3 October 2014 was a rostered day off with the roster changing after calving. I find that evidence is more likely, otherwise I would have expected to have seen the Monday rostered off in the subsequent weeks.

[31] Mr Sexton is therefore entitled to be reimbursed for four of the days being 27 February, 30 May, 16 September and 3 October 2014 because these days on the balance of probabilities should not have been deducted from his annual leave.

Should the sum of $164.94 have been deducted from Mr Sexton wages?

[32] The sum deducted from Mr Sexton's wages in May 2014 was for a purchase by him of gumboots and sunscreen in late 2013 using Manuka Hill's combined rural trader account. The gumboots were $119.94 and the sunscreen was $45.

[33] I raised with the representatives at the investigation meeting that only $79.34 was claimed as a deduction but in fact the deduction was $164.94. The figure of $79.34 is the balance after the deduction has been made.

[34] Mr and Mrs Inch said that under clause 9.1.2 of his employment agreement, Mr Sexton had chosen to provide his own weather gear and protective clothing and was paid an allowance of $20 per fortnight. The pay records do confirm that this allowance was paid to Mr Sexton every fortnight from 2013.

[35] Mr Sexton said that Mr Inch approved the purchases and that he did not give consent to the cost of the items being deducted from his pay. Mr and Mrs Inch do not accept approval was given on this occasion to make the purchases. They do not dispute that Mr Sexton was allowed to order supplies for the farm from the account and in the past they had let him buy personal items and protective clothing to get the benefit of the shareholder discount. He was then required to reimburse the costs of his purchases. Mr Sexton said that he understood that Mr and Mrs Inch would cover the cost of these items and he said that the sunscreen was in the shed and it could be used by others.

[36] It may have been that Mr Sexton said to Mr Inch that he intended to use the account for the purchases. I do though find it is very unlikely that Mr and Mrs Inch agreed to cover the cost of the gumboots as Mr Sexton was already being paid a $20 per fortnight reimbursement for wet weather gear. Mr Sexton said that the sunscreen was left at the shed for anyone to use but that was not accepted by Mr and Mrs Inch and they said it was for personal use.

[37] I could not be satisfied that the sunscreen was authorised as a farm purchase for general rather than for personal use. I am strengthened in that conclusion because there is no evidence that Mr Sexton raised this matter at the June 2014 meeting as would normally be expected if there was a deduction from wages that was unfair just a few weeks earlier. There is also nothing in Mr Sexton's handwritten notes that set out issues to be discussed at the meeting about the purchases. In conclusion therefore Mr and Mrs Inch could have asked for reimbursement for these items.

Authority for the deduction

[38] I turn now to whether there was authority for the deduction. There is a general deductions clause in the employment agreement in clause 13.5. Clause 13.5.2 includes money in respect of accounts paid by the employer on behalf of the employee including farm accounts.

[39] There is a dispute in the evidence however about when Mr Sexton was supplied with the employment agreement and then when it was signed. Mr and Mrs Inch say that it was provided at the start of employment and signed and post -dated in May 2014. Mr Sexton says that the employment agreement was only provided in 2014 and was not signed until June 2014. I find having considered the evidence that

it was more likely the employment agreement was signed in June 2014 although I prefer Mr and Mrs Inch's evidence that it was provided earlier. Mr Sexton's undated handwritten diary note at 53 of the bundle set out matters to be discussed and indeed the evidence supports these were discussed at the June 2014 meeting. One of them is to "go through the contract and sign….."

[40] That finding means there was no written consent to the deduction that occurred in May 2014 and there is a breach of s 4 of the Wages Protection Act 1983. Before I turn to what that may mean I do want to address one of Mr Sexton's concerns that there was no consultation before the money was deducted from his account. That concern is not without foundation.

[41] There is an amendment to s 5 of the Wages Protection Act 1983 that takes effect from 1 April 2016. It provides that an employer may, for a lawful purpose make deductions from wages payable to a worker with written consent which includes consent in a general deductions clause in the employment agreement. Even with a general deductions clause from 1 April 2016 there a requirement that such a deduction in accordance with a general deductions clause in an employment agreement not be made without first consulting the worker. The Employment Court in *Jonas v Menefy Trucking Limited*[1] had before this statutory amendment held that a specific deduction relying on a general deductions clause should have been discussed with the employee before it was imposed.

[42] The conclusion of all of this is that Mr Sexton owes money for the two items to Manuka Hill but the deduction made from his wages was unauthorised. There is no penalty sought in relation to this matter and such a claim would have been outside the statutory timeframe. I suggest the way forward to strictly comply with the Wages Protection Act 1983 would be an exchange of cheques rather than an order for reimbursement.

The power issue - is there an unjustified disadvantage

[43] The employment agreement provides under clause 15.16.3 that the employee must pay any electricity charges.

[1] [2013] ERNZ 651 at [62]

[44] Mr Sexton put forward some proposals for alternatives to paying power at the June 2014 meeting. His handwritten undated diary entry that I have referred to above is that power be supplied as he was not getting a pay rise and a bonus to cover the power. He also said that he wanted the power put into his own name so that he would not inadvertently pay for other power that he was not responsible for. Mr Sexton said that he understood there would not be regular power accounts and there would only be perhaps two per year as they are sent from the land owner to the Inch's on a very irregular basis.

[45] There is no evidence to support that Mr and Mrs Inch agreed to the proposal for alternative ways of paying power and there can be no oral variation on that basis even if other difficulties with an oral variation could be overcome. Mr and Mrs Inch say that they looked into getting the power account split up but it was going to cost $2000 to $3000 and as they did not own the house or land it was considered not affordable to do that. I am not satisfied that Mr and Mrs Inch agreed that Mr Sexton would only be liable to pay power if it was in his name. At best I find that Mr Sexton was unclear and probably worried because he did not know the amount he would be liable to pay for power because of the infrequency of the accounts.

[46] Unfortunately neither party seemed to discuss the matter after the meeting in June 2014. I find that the only agreement I can conclude was reached in June 2014 was that Mr Sexton would not have to pay for his power for the first year of his employment.

[47] Having found therefore that the express obligation to pay for power remained under the employment agreement for the second year of employment I do not need to traverse the submission on behalf of Mr Sexton that there was an oral agreement to vary the agreement. I do not find there is any unjustified action because Manuka Hill required Mr Sexton to pay for power for the second year.

Deduction of money from final wages for power

[48] At the end of the employment, Mr and Mrs Inch withheld $1,260.82 from Mr Sexton's wages for three invoices for power in the combined sum of $2246.72. The amount withheld is less than the invoice amount.

[49] The employment agreement in clause 13.5 provides an authorisation to the employer to deduct from wages, salary and final wages any money owed by the employee including in clause 13.5.2 for power accounts.

[50] Mr Sexton was responsible for paying for power used by him and his family in the supplied accommodation under the employment agreement. There was some discussion about deductions for power being made from the final pay. Mr Sexton was unhappy with that. There may be an issue as to the amount Mr Sexton owes and whether he has seen the actual accounts behind the invoices he was issued with based on those accounts. The parties should be able to resolve that matter. Determining that there was no oral agreement to vary may in itself have resolved the issue. If not then in order to achieve strict compliance with the Wages Protection Act 1983 there may need to be an exchange of cheques as I have set out above for the items purchased on account. I do not in the circumstances make any order for reimbursement.

Was Mr Sexton dismissed for genuine reason of redundancy?

[51] The Authority is required to determine on an objective basis under the test of justification in s 103A of the Employment Relations Act 2000 whether the employer's actions and how it acted were what a fair and reasonable employer could have done in all the circumstances –*Grace Team Accounting Limited v Judith Brake* Court of Appeal.[2] A fair and reasonable employer could be expected to comply with statutory good faith obligations including those of consultation and provision of information and with contractual obligations in the employment agreement. I'll start with setting out the relevant provision in the employment agreement at clause 26 which refers to redundancy.

The employment agreement

[52] Clause 26 of the employment agreement refers to redundancy as a situation where:

> the employee's employment is liable to be terminated, wholly or mainly, owing to the fact that the Employee's position is, or will become, superfluous to the needs of the Employer.

[2] *Grace Team Accounting Limited v Judith Brake* [2014] NZCA 541.

Justification to commence a restructuring

[53] Mr and Mrs Inch in their evidence talked about the difficulties in sustaining the farm system they were running and issues within the dairy industry. I accept that there were justifiable business reasons for commencing a restructure of the farm business. I will now turn to look at the process that followed the announcement of the restructuring.

The process

[54] The process of restructuring commenced in November/December 2014 and Mr and Mrs Inch involved a farm consultant. In early December 2014, Mr Sexton at a meeting held to discuss a restructure was told that his job may be made redundant and/or he could be retained in the role on a reduced salary. Over a period of time, Mr Sexton put forward some suggestions including being able to rear calves on the property to supplement any reduced income. Mr Sexton also suggested grazing cows on the home farm that he was working on instead of moving them. Mr Sexton said there was no real feedback to the proposal and he was advised by Mr Inch he would get back to him but he never did.

[55] Mr Sexton said that he did not really hear anything further about the restructuring and inquired two or three times of Mr and Mrs Inch about what was happening with the restructure. There was discussion probably in or about February 2015 about whether he should be looking for another job. Mr Sexton accepted that he may have initiated this. Mr and Mrs Inch were not opposed to the suggestion he look elsewhere. Mr Sexton said that he started to look for another job from mid-February 2015 but was not successful in obtaining another job until after he was advised on 10 March that his employment would be terminated and would end on 31 May 2015. Mr Sexton has a young family and at that time wanted to stay in Maruia if he could because his eldest child was at school in the area.

Letter confirming the conclusions from the consultation and advice of termination

[56] On 10 March 2015 Mr Sexton attended a meeting and was given a letter. The letter advised him that it was to "formally confirm the decisions that have resulted from the discussions at our consultation meeting held with you on 01.12.14 about our proposed restructuring." The feedback and suggestions were noted but not set out and it was stated that although considered the decision was to proceed with the restructure.

The decision was that there was no longer a day to day manager required at Woolley Creek road farm as the farm would no longer be operating as a dairy farm and would be converted to a run off. Mr Sexton was advised his employment would need to terminate and would end on 31 May 2015. The notice given exceeded the notice required in the employment agreement.

[57] Mr Sexton recalled that the only other workers at that time were a contractor and his two employees.

[58] Mr and Mrs Inch said in their evidence that they did not have a final plan for their business until April/May 2015. That was of course after Mr Sexton was advised of the decision reached that his employment was to terminate. That final plan included the employment in May 2015 of two employees including a 2IC to work on Inca Farm which is the other farm the Inch's operate and lease. I am quite satisfied that Mr Sexton was not aware of these roles before the decision was made to terminate his employment. When I asked Mr and Mrs Inch whether they thought the 2IC role could be offered to Mr Sexton they said that he had already taken another job and they assumed he would not want it. The salary for the 2IC role was $48,000. Mr Sexton for his part was not adverse to the role and said that the responsibilities were not dissimilar to that which he had been undertaking. He had already put forward other options if his salary was to be reduced as part of the process.

[59] Mr Sexton moved out of the farm on 31 May 2015 and commenced another farm role in Nelson from 1 June 2015.

[60] I accept that there may have been very good reasons for that delay in arriving at a final plan but there is a fundamental procedural difficulty in the process which overlaps with the genuineness of the redundancy. Consultation, if it is to be truly meaningful, requires sufficiently precise information to be provided to the employee so as to afford a proper opportunity to respond. There was I find inadequate consultation because the final plan was not available until after decisions had been made about Mr Sexton's employment. Mr Sexton could not therefore provide feedback that could be assessed against that final plan which included two new positions. There was no proper consideration whether in particular the 2IC position was a suitable redeployment opportunity.

Conclusion

[61] Consultation for reasons explained above was inadequate. A decision was made before there was a final plan in the restructuring. A redeployment opportunity was not therefore identified in consultation before the decision was made to terminate Mr Sexton's employment.

[62] Objectively assessed this was not what a fair and reasonable employer could have done in all the circumstances at the time the dismissal occurred. The test for justification in s 103A is not met because of this notwithstanding there was a genuine business reasons for restructuring. Mr and Mrs Inch did not accept there was an ulterior motive for dismissing Mr Sexton but the procedural deficiencies identified are such that I cannot be satisfied of the genuineness of the redundancy.

[63] Mr Sexton was unjustifiably dismissed and is entitled to consideration of remedies.

Remedies

Lost Wages

[64] Mr Sexton did not suffer any lost wages because he was able to start immediately after termination in other employment on a similar salary.

Compensation

[65] Mr Sexton said that he did not want to move away from Maruia and that the restructuring was a time of considerable uncertainty with limited information provided.

[66] I have weighed that Mr Sexton obtained new employment but I accept that he did not want to move and that there was uncertainty for him over the restructuring period. There were changes for his children when he moved out of the district that he wanted to avoid. I am of the view that a suitable award is the sum of $5000.

[67] I order Manuka Hill 2003 Limited to pay to James Michael Sexton the sum of $5000 without deduction being compensation under s 123 (1)(c)(i) of the Employment Relations Act 2000.

Moving Costs

[68] Moving costs are sought in the sum of $2000. These were apparently paid for in cash. I accept Mr Sexton had the additional expense of moving in circumstances where the ending of employment was not at his initiative and he was living in accommodation on the farm. He was required to shift his household furniture from Maruia to Nelson and I accept incurred costs in doing so. In the absence of invoices I am not prepared to award the sum of $2000 but consider that an award of $1000 under s 123 (1) (b) of the Act toward other money lost as a result of the grievance would be fair.

[69] I order Manuka Hill 2003 Limited to pay to James Michael Sexton the sum of $1000 being reimbursement of a sum equal to the part of moving costs paid as a result of the grievance.

Contribution

[70] There is no issue of contribution on the part of Mr Sexton and the above remedies are not to be reduced.

Interest

[71] I am not minded to make an award of interest on the money awarded.

Costs

[72] I reserve the issue of costs. Mr Zindel and Ms Goodison have until 3 July 2017 to lodge and serve submissions as to costs and Mr Duncan has until 17 July 2017 to lodge and serve submissions in reply.

Helen Doyle
Member of the Employment Relations Authority